

State of California
COMMISSION ON STATE MANDATES
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TEST CLAIM FORM

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Claim No. 02-TC-04

Local Agency or School District Submitting Claim

City of Newport Beach

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Representative Organization to be Notified

League of California Cities

This test claim alleges the existence of a reimbursable state mandated program within the meaning of section 17514 of the Government Code and section 6, article XIII B of the California Constitution. This test claim is filed pursuant to section 17551(a) of the Government Code.

Identify specific section(s) of the chaptered bill or executive order alleged to contain a mandate, including the particular statutory code section(s) within the chaptered bill, if applicable.

Chapter 1340, Statutes of 1980; Chapter 803, Statutes of 1995; Chapter 468, Statutes of 2001; Chapter 1338, Statutes of 1992; Chapter 1609, Statutes of 1984; Chapter 1230, Statutes of 1993; Chapter 965, Statutes of 1995; Chapter 483, Statutes of 2001; Chapter 1172, Statutes of 1989; Chapter 933, Statutes of 1998; Chapter 626, Statutes of 2000; Chapter 571, Statutes of 1999; Senate Resolution 64, Chapter 147, 1982; California Department of Justice, Criminal Justice Statistics Center, Criminal Statistics Reporting Requirements, March 2000; and California Department of Justice, Criminal Justice Statistics Center, Criminal Statistics Reporting Requirements Spreadsheet, March 2000

IMPORTANT: PLEASE SEE INSTRUCTIONS AND FILING REQUIREMENTS FOR COMPLETING A TEST CLAIM ON THE REVERSE SIDE.

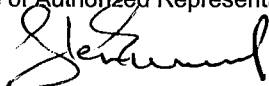
Name and Title of Authorized Representative

Telephone No.

GLEN EVERROAD, Revenue Manager

(949) 644-3141

Signature of Authorized Representative



Date:

19 Sep 02

**BEFORE THE
COMMISSION ON STATE MANDATES**

Test Claim of:
City of Newport Beach

Crime Statistic Reports for the Department of Justice

Chapter 1340, Statutes of 1980; Chapter 803, Statutes of 1995; Chapter 468, Statutes of 2001; Chapter 1338, Statutes of 1992; Chapter 1609, Statutes of 1984; Chapter 1230, Statutes of 1993; Chapter 965, Statutes of 1995; Chapter 483, Statutes of 2001; Chapter 1172, Statutes of 1989; Chapter 933, Statutes of 1998; Chapter 626, Statutes of 2000; Chapter 571, Statutes of 1999; Senate Resolution 64, Chapter 147, 1982; California Department of Justice, Criminal Justice Statistics Center, Criminal Statistics Reporting Requirements, March 2000; and California Department of Justice, Criminal Justice Statistics Center, Criminal Statistics Reporting Requirements Spreadsheet, March 2000

STATEMENT OF THE CLAIM

A. MANDATE SUMMARY

Beginning in 1955, the Legislature, through enactments in the Penal Code, set forth requirements that the Department of Justice (DOJ) must prepare statistical reports for review. Pursuant to Penal Code §§13020 and 13021, local law enforcement were required to comply with the DOJ and begin collecting statistical crime data. Reports were then generated and submitted to the DOJ either monthly or annually depending on the nature of the information the report contained.. At that time, only a few reports were required. In the late 1970's and through to present time, these reports have increased in number and complexity. Now, at least 10 types of reports are due monthly and three more due annually reporting on various issues such as homicide, domestic violence, citizen complaints, and hate crimes.

Section 13012 of the Penal Code, added in 1955, sets forth the required contents of an annual report by the DOJ. The DOJ, in turn requires all local agencies with police powers including sheriffs, police, District Attorneys and probation officers, to gather and to report general statistical information on all adult offenders annually. Chapter 1340, Statutes of 1980, added the requirement that local agencies report the number of citizens' complaints, the number of complaints that alleged criminal conduct, and the number of complaints within each category of crime. Chapter 803, Statutes of 1995, expanded the

reporting to include all juvenile offenders. Finally Chapter 468, Statutes of 2001, added that the report on juveniles must include any administrative action taken by law enforcement or correctional agencies dealing with minors in the juvenile justice system where the minor had a criminal case either transferred to or initiated in adult criminal court. The DOJ requires report number CJSC 724 be filed annually.

Penal Code §13012 currently reads:

The annual report of the department provided for in Section 13010 shall contain statistics showing all of the following:

(a) The amount and the type of offenses known to public authorities.

(b) The personal and social characteristics of criminals and delinquents.

(c) The administrative actions taken by law enforcement, judicial, penal and correctional agencies or institutions, including those in the juvenile justice system, in dealing with criminals or delinquents.

(d) The administrative actions taken by law enforcement, prosecutorial, judicial, penal and correctional agencies, , including those in the juvenile justice system, in dealing with minors who are the subject of a petition or hearing in the juvenile court to transfer their case to the jurisdiction of an adult criminal court or whose cases are directly filed or otherwise initiated in an adult criminal court.

(e) The number of citizens' complaints received by law enforcement agencies under Section 832.5. These statistics shall indicate the total number of these complaints, the number alleging criminal conduct of either a felony or misdemeanor, and the number sustained in each category. The report shall not contain a reference to any individual agency but shall be by gross numbers only.

It shall be the duty of the department to give adequate interpretation of the statistics and so to present the information that it may be of value in guiding the policies of the Legislature and of those in charge of the apprehension, prosecution, and treatment of the criminals and delinquents, or concerned with the prevention of crime and delinquency. The report shall also include statistics which are comparable with national uniform criminal statistics published by federal bureaus or departments heretofore mentioned.

Section 13014 of the Penal Code, added by Chapter 1338, Statutes of 1992, requires all local entities responsible for the investigation or prosecution of homicides submit a report

to the DOJ containing victim and offender demographic information. The DOJ requires report number BCS 15 be submitted monthly.

Penal Code §13014 reads, in pertinent part:

(b) Every state or local governmental entity responsible for the investigation and prosecution of a homicide case shall provide the department with demographic information about the victim and the person or persons charged with the crime including age, gender, race and ethnic background.

Section 13023 of the Penal Code, added by Chapter 1172, Statutes of 1989, requires local law enforcement agencies to report criminal acts or attempted criminal acts commonly referred to as hate crimes. The DOJ requires that sheriffs and police file its Agency Crime Report monthly and District attorneys file report number CJSC 5 on hate crime prosecution annually. Chapter 933, Statutes of 1998, expanded the parameters of a hate crime to include gender. Chapter 626, Statutes of 2001, further expanded the parameters to include national origin.

Penal Code §13023 currently reads:

Commencing July 1, 1990, subject to the availability of adequate funding, the Attorney General shall direct local law enforcement agencies to report to the Department of Justice, in a manner to be proscribed by the Attorney General, any information that may be required relative to any criminal acts or attempted criminal acts to cause physical injury, emotional suffering, or property damage where there is a reasonable cause to believe that the crime was motivated, in whole or in part, by the victim's race, ethnicity, religion, gender, sexual orientation, national origin, or physical or mental disability. On or before July 1, 1992, and every July 1 thereafter, the Department of Justice shall submit a report to the Legislature analyzing the results of the information obtained from local law enforcement agencies pursuant to this section.

Section 12025 of the Penal Code, added in 1953, makes carrying a concealed weapon a crime. This statute has been amended several times but most recently, Chapter 571, statutes of 1999, added a reporting requirement for local District Attorneys for an annual report. The DOJ requires that report number CJSC 4 be submitted monthly.

Penal Code §12025 reads, in pertinent part:

(h)(1) The district attorney of each county shall submit annually a report on or before June 30, to the Attorney

General consisting of profiles by race, age, gender, and ethnicity of any person charged with a felony or a misdemeanor under this section and any other offence charged in the same complaint, indictment, or information.

Section 12031 of the Penal Code, added in 1967, makes carrying a loaded firearm a crime. This statute has been amended nearly every year but most recently, Chapter 571, statutes of 1999, added a reporting requirement for local District Attorneys for an annual report. The DOJ requires that report number CJSC 4 be submitted monthly.

Penal Code §12031 reads, in pertinent part:

(m)(1) The district attorney of each county shall submit annually a report on or before June 30, to the Attorney General consisting of profiles by race, age, gender, and ethnicity of any person charged with a felony or a misdemeanor under this section and any other offence charged in the same complaint, indictment, or information.

Section 13730 of the Penal Code, added by Chapter 1609, Statutes of 1984, requires that local law enforcement develop a system for recording all domestic violence-related calls. Chapter 1230, Statutes of 1993, amended the statute to require a written incident report. Chapter 965, Statutes of 1995, expanded the information be recorded to include whether the abuser was under the influence or if law enforcement had had prior calls to that same address with the same parties. Chapter 483, Statutes of 2001, further required a recordation of whether the officer at the scene had to inquire regarding the presence of firearms or other deadly weapon. The compiled information is required to be submitted in report number CJSC 715 to the DOJ monthly.

Penal Code §13730 currently reads:

(a) Each law enforcement agency shall develop a system, by January 1, 1986, for recording all domestic violence-related calls for assistance made to the department including whether weapons are involved. All domestic violence-related calls for assistance shall be supported by a written incident report, as described in subdivision (c), identifying the domestic violence incident. Monthly, the total number of domestic violence calls received and the numbers of those cases involving weapons shall be compiled by each law enforcement agency and submitted to the Attorney General.

(b) The Attorney General shall report annually to the Governor, the Legislature, and the public the total number of domestic violence-related calls received by California

law enforcement agencies, the number of cases involving weapons, and a breakdown of call received by agency, city, and county.

(c) Each law enforcement agency shall develop an incident report form that includes a domestic violence identification code by January 1, 1986. In all incidents of domestic violence, a report shall be written and shall be identified on the face of the report as a domestic violence incident. The report shall include at least all of the following:

(1) A notation of whether the officer or officers who responded to the domestic violence call observed any signs that the alleged abuser was under the influence of alcohol or a controlled substance.

(2) A notation of whether the officer or officers who responded to the domestic violence call determined if any law enforcement agency had previously responded to a domestic violence call at the same address involving the same alleged abuser or victim.

(3) A notation of whether the officer or officers who responded to the domestic violence call found it necessary, for the protection of the peace officer or other person present, to inquire of the victim, the alleged abuser, or both, whether a firearm or other deadly weapon was present at the location, and, if there is an inquiry, whether the inquiry disclosed the presence of a firearm or other deadly weapon. Any firearm or other deadly weapon discovered by an officer at the scene of a domestic violence incident shall be subject to confiscation pursuant to Section 12028.5.

Senate Resolution 64, Chapter 147, Statutes of 1982, requests local law enforcement to modify data gathering procedures to collect information on the number of victims of crime who are 60 years of age or older. The DOJ requires that reports concerning violent crime against senior citizens are submitted monthly report number BCS 727.

Although some of the legislation places the duty to report to the Legislature squarely on the shoulders of the State Department of Justice, the DOJ is quick to pass the brunt of this effort onto local agencies. The net effect of this legislation is to require local law enforcement to act as statisticians and data collectors for the state Department of Justice. Thus, the total costs of these claims are reimbursable.

The City of Newport Beach does not have full estimates on the costs of this program, but same are substantially in excess of \$1000 per year.

B. LEGISLATIVE HISTORY PRIOR TO 1975

Prior to 1975, certain types of reports were required to be filed with the DOJ. These reports included information on arrests, arson, crimes and clearances, law enforcement personnel killed or assaulted, deaths of individuals while in custody, probation, and law enforcement and criminal justice personnel surveys.

There was no requirement prior to 1975, nor in any of the intervening years, until the passage of the aforementioned Chapters which mandated reports in other areas. These Chapters created an expanded list of reporting requirements including information on domestic violence, homicide, hate crimes, concealed weapons, loaded firearms, violent crimes against senior citizens and citizens' complaints.

C. SPECIFIC STATUTORY SECTIONS THAT CONTAIN THE MANDATED ACTIVITIES

As related above, the mandated activities are contained in Penal Code §§13012, 13014, 13023, 12025, 12031, and 13730. These sections directly relate to the reimbursable provisions of this test claim.

D. COST ESTIMATES

The City of Newport Beach does not have full estimates on the costs of discharging this program, but estimates that the costs will substantially exceed \$1000.00 per year.

E. REIMBURSABLE COSTS MANDATED BY THE STATE

The costs incurred by City of Newport Beach as a result of the statute on which this test claim is based are all reimbursable costs as such costs are "costs mandated by the State" under Article XIII B (6) of the California Constitution, and Government Code §17500 *et seq.* of the Government Code. Section 17514 of the Government Code defines "costs mandated by the state", and specifies the following three requirements:

1. There are "increased costs which a local agency is required to incur after July 1, 1980."
2. The costs are incurred "as a result of any statute enacted on or after January 1, 1975."
3. The costs are the result of "a new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution."

All three of the above requirements for finding costs mandated by the State are met as described previously herein.

F. MANDATE MEETS BOTH SUPREME COURT TESTS

The mandate created by this statute clearly meets both tests that the Supreme Court in the *County of Los Angeles v. State of California* (1987) created for determining what constitutes a reimbursable state mandated local program. Those two tests, which the Commission on State Mandates relies upon to determine if a reimbursable mandate exists, are the “unique to government” and the “carry out a state policy” tests. Their application to this test claim is discussed below.

Mandate Is Unique to Local Government

Only local government employs law enforcement. Thus, this requirement is unique to government.

Mandate Carries Out a State Policy

From the legislation, it is clear that the Legislature wishes to avail itself of a collection of crime statistics. These statistics are not only for the use of the Legislature but also for use by state agencies for reports and implementation of policy regarding the prevention of crime and delinquency.

In summary, the statutes mandates that the City of Newport Beach bear the burden of obtaining the necessary information, distilling that information into reports and submitting same to the DOJ mostly on a monthly basis. The City of Newport Beach believes that the additional reporting requirements satisfies the constitutional requirements for a mandate.

STATE FUNDING DISCLAIMERS ARE NOT APPLICABLE

There are seven disclaimers specified in Government Code §17556 which could serve to bar recovery of “costs mandated by the State”, as defined in Government Code §17556. None of the seven disclaimers apply to this test claim:

1. The claim is submitted by a local agency or school district which requests legislative authority for that local agency or school district to implement the Program specified in the statutes, and that statute imposes costs upon the local agency or school district requesting the legislative authority.
2. The statute or executive order affirmed for the State that which had been declared existing law or regulation by action of the courts.
3. The statute or executive order implemented a federal law or regulation and resulted in costs mandated by the federal government, unless the statute or executive order mandates costs which exceed the mandate in that federal law or regulation.

4. The local agency or school district has the authority to levy service charges, fees or assessments sufficient to pay for the mandated program or increased level of service.
5. The statute or executive order provides for offsetting savings to local agencies or school districts which result in no net costs to the local agencies or school districts, or includes additional revenue that was specifically intended to fund the costs of the State mandate in an amount sufficient to fund the cost of the State mandate.
6. The statute or executive order imposed duties which were expressly included in a ballot measure approved by the voters in a Statewide election.
7. The statute created a new crime or infraction, eliminated a crime or infraction, or changed the penalty for a crime or infraction, but only for that portion of the statute relating directly to the enforcement of the crime or infraction.

None of the above disclaimers have any application to the test claim herein stated by the City of Newport Beach.

CONCLUSION

The enactment of Chapter 1340, Statutes of 1980; Chapter 803, Statutes of 1995; Chapter 468, Statutes of 2001; Chapter 1338, Statutes of 1992; Chapter 1609, Statutes of 1984; Chapter 1230, Statutes of 1993; Chapter 965, Statutes of 1995; Chapter 483, Statutes of 2001; Chapter 1172, Statutes of 1989; Chapter 933, Statutes of 1998; Chapter 626, Statutes of 2000; Chapter 571, Statutes of 1999 and Senate Resolution 64, Chapter 147, 1982 imposed a new state mandated program and cost on the City of Newport Beach by requiring additional reports be submitted generally on a monthly basis to the DOJ. To create such reports, local law informant is placed in the position of having to compile various data and complete a laundry list of reports, each with a specific timeline for submission. The mandated program meets all of the criteria and tests for the Commission on State Mandates to find a reimbursable state mandated program. None of the so-called disclaimers or other statutory or constitutional provisions that would relieve the State from its constitutional obligation to provide reimbursement have any application to this claim.

G. CLAIM REQUIREMENTS

The following elements of this test claim are provided pursuant to Section 1183, Title 2, of the California Code of Regulations:

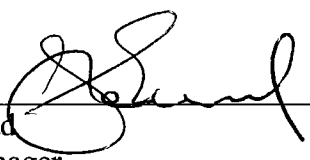
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| Exhibit 1: | Chapter 1340, Statutes of 1980 |
| Exhibit 2: | Chapter 803, Statutes of 1995 |
| Exhibit 3: | Chapter 468, Statutes of 2001 |

- Exhibit 4: Chapter 1338, Statutes of 1992
- Exhibit 5: Chapter 1609, Statutes of 1984
- Exhibit 6: Chapter 1230, Statutes of 1993
- Exhibit 7: Chapter 965, Statutes of 1995
- Exhibit 8: Chapter 483, Statutes of 2001
- Exhibit 9: Chapter 1172, Statutes of 1989
- Exhibit 10: Chapter 933, Statutes of 1998
- Exhibit 11: Chapter 626, Statutes of 2000
- Exhibit 12: Chapter 571, Statutes of 1999
- Exhibit 13: Senate Resolution 64, Chapter 147, 1982
- Exhibit 14: California Department of Justice, Criminal Justice Statistics Center, Criminal Statistics Reporting Requirements, March 2000
- Exhibit 15: California Department of Justice, Criminal Justice Statistics Center, Criminal Statistics Reporting Requirements Spreadsheet, March 2000

CLAIM CERTIFICATION

The foregoing facts are known to me personally and if so required, I could and would testify to the statements made herein. I declare under penalty of perjury under the laws of the State of California that the statements made in this document are true and complete to the best of my personal knowledge and as to all matters, I believe them to be true.

Executed this 18 day of September, 2002, at City of Newport Beach, California, by:



Glen Everroad
Revenue Manager
City of Newport Beach

DECLARATION OF GLEN EVERROAD

I, Glen Everroad, make the following declaration under oath:

I am the Revenue Manager for City of Newport Beach. As part of my duties, I am responsible for the complete and timely recovery of costs mandated by the State.

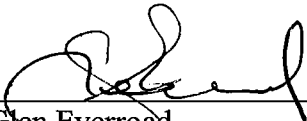
I declare that I have examined the City of Newport Beach's State mandated duties and resulting costs, in implementing the subject law, and find that such costs are, in my opinion, "costs mandated by the State", as defined in Government Code, Section 17514:

" 'Costs mandated by the State' means any increased costs which a local agency or school district is required to incur after July 1, 1980, as a result of any statute enacted on or after January 1, 1975, or any executive order implementing any statute enacted on or after January 1, 1975, which mandates a new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution."

I am personally conversant with the foregoing facts, and if so required, I could and would testify to the statements made herein.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct of my own knowledge, except as to the matters which are stated upon information or belief, and as to those matters, I believe them to be true.

Executed this 10 day of September, 2002, at Newport Beach, California.



Glen Everroad
Revenue Manager
City of Newport Beach

region, or county office shall be made to insure the highest quality educational offerings.

(n) Appropriate qualified staff are employed, consistent with credentialing requirements, to fulfill the responsibilities of the local plan and that positive efforts to employ qualified handicapped individuals are made.

(o) Regular and special education personnel are adequately prepared to provide educational instruction and services to individuals with exceptional needs.

SEC. 38. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code and Section 6 of Article XIII B of the California Constitution, no appropriation is made by this act pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

SEC. 39. (a) The provisions of this act shall become operative on July 1, 1981, except as specified in subdivision (b).

(b) Sections 7, 16, 19, 24, 25, 32, 33, 34, and 35 of this act shall become operative on January 1, 1981.

CHAPTER 1340

An act to amend Section 7522 of the Business and Professions Code, to amend Section 8325 of the Health and Safety Code, to amend Sections 241, 243, 245, 830.1, 830.2, 830.3, 830.4, 830.5, 830.6, 831, 832.4, 12027, 12031, and 13012 of, to add Sections 830.31, 830.7, 830.8, and 830.10 to, and to repeal Sections 243.2, 243.4, 245.2, 245.4, 830.31, 830.35, 830.36, 830.5a, 830.7, 830.10, and 830.11 of, the Penal Code, to amend Sections 165, 1808.4, 2416, 22651, 22653, 22654, 22655, 22656, and 22702 of, and to repeal Sections 165.3, 165.4, 22657.5, and 22659 of, the Vehicle Code, and to amend Section 5008 of the Welfare and Institutions Code, relating to peace officers, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1980. Filed with Secretary of State September 30, 1980.]

The people of the State of California do enact as follows:

SECTION 1. Section 7522 of the Business and Professions Code is amended to read:

7522. This chapter does not apply to:

(a) A person employed exclusively and regularly by one employer in connection with the affairs of such employer only and where there exists an employer-employee relationship, provided that such person at no time carries or uses any deadly weapon in the performance of

his or her duties. For purposes of this subdivision, "deadly weapon" is defined to include any instrument or weapon of the kind commonly known as a blackjack, slungshot, billy, sandclub, sandbag, metal knuckles, any dirk, dagger, pistol, revolver, or any other firearm, any knife having a blade longer than five inches, any razor with an unguarded blade and any metal pipe or bar used or intended to be used as a club.

(b) An officer or employee of the United States of America, or of this state or a political subdivision thereof, while such officer or employee is engaged in the performance of his official duties, including uniformed peace officers employed part time by a public agency pursuant to a written agreement between a chief of police or sheriff and the public agency, provided such part-time employment does not exceed 50 hours in any calendar month.

(c) A person engaged exclusively in the business of obtaining and furnishing information as to the financial rating of persons.

(d) A charitable philanthropic society or association duly incorporated under the laws of this state which is organized and maintained for the public good and not for private profit.

(e) Patrol special police officers appointed by the police commission of any city, county, or city and county under the express terms of its charter who also under the express terms of the charter (1) are subject to suspension or dismissal after a hearing on charges duly filed with the commission after a fair and impartial trial, (2) must be not less than 18 years of age nor more than 40 years of age, (3) must possess physical qualifications prescribed by the commission, and (4) are designated by the police commission as the owners of a certain beat or territory as may be fixed from time to time by the police commission.

(f) An attorney at law in performing his duties as such attorney at law.

(g) A licensed collection agency or an employee thereof while acting within the scope of his employment, while making an investigation incidental to the business of the agency, including an investigation of the location of a debtor or his property where the contract with an assignor creditor is for the collection of claims owed or due or asserted to be owed or due or the equivalent thereof.

(h) Admitted insurers and agents and insurance brokers licensed by the state, performing duties in connection with insurance transacted by them.

(i) The legal owner of personal property which has been sold under a conditional sales agreement or a mortgagee under the terms of a chattel mortgage.

(j) Any bank subject to the jurisdiction of the Superintendent of Banks of the State of California or the Comptroller of Currency of the United States.

(k) A person engaged solely in the business of securing information about persons or property from public records.

(l) A peace officer of this state or a political subdivision thereof

while such peace officer is employed by a private employer to engage in off-duty employment in accordance with the provisions of Section 1126 of the Government Code. However, nothing herein shall exempt such peace officer who contracts for his or her services or the services of others as a private investigator or private patrol operator.

(m) A retired peace officer of the state or political subdivision thereof when such retired peace officer is employed by a private employer in employment approved by the chief law enforcement officer of the jurisdiction where the employment takes place, provided that the retired officer is in a uniform of a public law enforcement agency, has registered with the bureau on a form approved by the director, and has met any training requirements or their equivalent as established for security personnel under Section 7514.1 or 7514.2. Such officer may not carry a loaded or concealed firearm unless he or she is exempted under the provisions of subdivision (a) of Section 12027 of the Penal Code or paragraph (1) of subdivision (b) of Section 12031 of the Penal Code or has met the requirements set forth in Section 12033 of the Penal Code. However, nothing herein shall exempt such retired peace officer who contracts for his or her services or the services of others as a private investigator or private patrol operator.

SEC. 2. Section 8325 of the Health and Safety Code is amended to read:

8325. Persons designated by a cemetery authority have the powers of arrest as provided in Section 830.7 of the Penal Code for the purpose of maintaining order, enforcing the rules and regulations of the cemetery association, the laws of the state, and the ordinances of the city or county, within the cemetery over which he has charge, and within such radius as may be necessary to protect the cemetery property.

SEC. 2.1. Section 241 of the Penal Code is amended to read:

241. An assault is punishable by fine not exceeding five hundred dollars (\$500), or by imprisonment in the county jail not exceeding six months, or by both. When it is committed against the person of a peace officer, as that term is defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of this code, or a fireman, and the person committing the offense knows or reasonably should know that such victim is a peace officer or fireman engaged in the performance of his duties, and such peace officer or fireman is engaged in the performance of his duties, the offense shall be punished by a fine not exceeding one thousand dollars (\$1,000), or by imprisonment in the county jail not exceeding one year, or by both such fine and imprisonment.

SEC. 2.2. Section 243 of the Penal Code is amended to read:

243. A battery is punishable by fine of not exceeding one thousand dollars (\$1,000), or by imprisonment in the county jail not exceeding six months, or by both such fine and imprisonment. When it is committed against the person of a peace officer, as that term is

defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of this code, or a fireman, and the person committing the offense knows or reasonably should know that such victim is a peace officer or fireman engaged in the performance of his duties, and such peace officer or fireman is engaged in the performance of his duties, the offense shall be punished by a fine not exceeding one thousand dollars (\$1,000), or by imprisonment in the county jail not exceeding one year, or by both such fine and imprisonment.

When it is committed against a peace officer, as that term is defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, or a fireman, and the person committing the offense knows or reasonably should know that such victim is a peace officer or fireman engaged in the performance of his duties, and such peace officer or fireman is engaged in the performance of his duties, and an injury is inflicted on such peace officer or fireman, the offense shall be punished by imprisonment in the county jail for a period of not more than one year, or by a fine or not more than one thousand dollars (\$1,000), or by imprisonment in the state prison for 16 months, or two or three years. When it is committed against a person and serious bodily injury is inflicted on such person, the offense shall be punished by imprisonment in the county jail for a period of not more than one year or imprisonment in the state prison for two, three, or four years.

As used in this section, "serious bodily injury" means a serious impairment of physical condition, including, but not limited to, the following: loss of consciousness; concussion; bone fracture; protracted loss or impairment of function of any bodily member or organ; a wound requiring extensive suturing; and serious disfigurement.

As used in this section "injury" means any physical injury which requires professional medical treatment.

SEC. 3. Section 243.2 of the Penal Code is repealed.

SEC. 3.1. Section 243.4 of the Penal Code is repealed.

SEC. 3.2. Section 245 of the Penal Code is amended to read:

245. (a) Every person who commits an assault upon the person of another with a deadly weapon or instrument or by any means of force likely to produce great bodily injury is punishable by imprisonment in the state prison for two, three or four years, or in a county jail not exceeding one year, or by fine not exceeding five thousand dollars (\$5,000), or by both such fine and imprisonment. When a person is convicted of a violation of this section, in a case involving use of a deadly weapon or instrument, and such weapon or instrument is owned by such person, the court may, in its discretion, order that the weapon or instrument be deemed a nuisance and shall be confiscated and destroyed in the manner provided by Section 12028.

(b) Every person who commits an assault with a deadly weapon or instrument or by any means likely to produce great bodily injury upon the person of a peace officer or fireman, and who knows or reasonably should know that such victim is a peace officer or fireman

engaged in the performance of his duties, when such peace officer or fireman is engaged in the performance of his duties shall be punished by imprisonment in the state prison for three, four, or five years.

As used in this section, "peace officer" refers to any person designated as a peace officer in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of this code.

SEC. 4. Section 245.2 of the Penal Code is repealed.

SEC. 4.5. Section 245.4 of the Penal Code is repealed.

SEC. 5. Section 830.1 of the Penal Code is amended to read:

830.1. (a) Any sheriff, undersheriff, or deputy sheriff, regularly employed and paid as such, of a county, any policeman of a city, any policeman of a district authorized by statute to maintain a police department, any marshal or deputy marshal of a municipal court, any constable or deputy constable, regularly employed and paid as such, of a judicial district, or any inspector or investigator regularly employed and paid as such in the office of a district attorney, is a peace officer. The authority of any such peace officer extends to any place in the state:

(1) As to any public offense committed or which there is probable cause to believe has been committed within the political subdivision which employs him; or

(2) Where he has the prior consent of the chief of police, or person authorized by him to give such consent, if the place is within a city or of the sheriff, or person authorized by him to give such consent, if the place is within a county; or

(3) As to any public offense committed or which there is probable cause to believe has been committed in his presence, and with respect to which there is immediate danger to person or property, or of the escape of the perpetrator of such offense.

(b) The Deputy Director, assistant directors, chiefs, assistant chiefs, special agents, and narcotics agents of the Department of Justice, and such investigators who are designated by the Attorney General are peace officers. The authority of any such peace officer extends to any place in the state as to a public offense committed or which there is probable cause to believe has been committed within the state.

SEC. 6. Section 830.2 of the Penal Code is amended to read:

830.2. The following persons are peace officers whose authority extends to any place in the state:

(a) Any member of the California Highway Patrol provided, that the primary duty of any such peace officer shall be the enforcement of the provisions of the Vehicle Code or of any other law relating to the use or operation of vehicles upon the highways, as that duty is set forth in the Vehicle Code.

(b) Any member of the California State Police Division provided, that the primary duty of any such peace officer shall be the protection of state properties and occupants thereof.

(c) Members of the California National Guard have the powers of

peace officers when they are (1) called or ordered into active state service by the Governor pursuant to the provisions of Section 143 or 146 of the Military and Veterans Code, (2) serving within the area wherein military assistance is required, and (3) directly assisting civil authorities in any of the situations specified in Section 143 or 146. The authority of any such peace officer extends to the area wherein military assistance is required as to a public offense committed or which there is reasonable cause to believe has been committed within that area. The requirements of Section 1031 of the Government Code are not applicable under such circumstances.

(d) A member of the University of California Police Department appointed pursuant to Section 92600 of the Education Code provided, that the primary duty of any such peace officer shall be the enforcement of the law within the area specified in Section 92600 of the Education Code.

(e) A member of the California State University and College Police Departments appointed pursuant to Section 89560 of the Education Code provided, that the primary duty of any such peace officer shall be the enforcement of the law within the area specified in Section 89560 of the Education Code.

(f) Any member of the Law Enforcement Liaison Unit of the Department of Corrections, provided that the primary duty of any such peace officer shall be the investigation or apprehension of parolees, parole violators, or escapees from state institutions, the transportation of such persons, and the coordination of such activities with other criminal justice agencies.

(g) Members of the Wildlife Protection Branch of the Department of Fish and Game, provided that the primary duty of such deputies shall be the enforcement of the law as set forth in Section 856 of the Fish and Game Code.

(h) Employees of the Department of Parks and Recreation designated by the director pursuant to Section 5008 of the Public Resources Code, provided that the primary duty of any such peace officer shall be the enforcement of the law as set forth in Section 5008 of the Public Resources Code.

SEC. 7. Section 830.3 of the Penal Code is amended to read:

830.3. The following persons are peace officers whose authority extends to any place in the state for the purpose of performing their primary duty or when making an arrest pursuant to Section 836 of the Penal Code as to any public offense with respect to which there is immediate danger to person or property, or of the escape of the perpetrator of such offense, or pursuant to Section 8597 or Section 8598 of the Government Code. Such peace officers may carry firearms only if authorized and under such terms and conditions as are specified by their employing agencies:

(a) Persons employed by the Department of Alcoholic Beverage Control for the enforcement of the provisions of Division 9 (commencing with Section 23000) of the Business and Professions Code and designated by the Director of Alcoholic Beverage Control,

provided that the primary duty of any such peace officer shall be the enforcement of the laws relating to alcoholic beverages, as that duty is set forth in Section 25755 of the Business and Professions Code.

(b) Persons employed by the Division of Investigation of the Department of Consumer Affairs, and investigators of the Board of Medical Quality Assurance and the Board of Dental Examiners, and designated by the Director of Consumer Affairs, provided that the primary duty of any such peace officer shall be the enforcement of the law as that duty is set forth in Section 160 of the Business and Professions Code.

(c) Employees or classes of employees of the Department of Forestry and voluntary fire wardens as are designated by the Director of Forestry pursuant to Section 4156 of the Public Resources Code, provided that the primary duty of any such peace officer shall be the enforcement of the law as that duty is set forth in Section 4156 of such code.

(d) Employees of the Department of Motor Vehicles designated in Section 1655 of the Vehicle Code, provided that the primary duty of any such peace officer shall be the enforcement of the law as that duty is set forth in Section 1655 of such code.

(e) Investigators of the California Horse Racing Board designated by the board, provided that the primary duty of any such peace officer shall be the enforcement of the provisions of Chapter 4 (commencing with Section 19400) of Division 8 of the Business and Professions Code and Chapter 10 (commencing with Section 330) of Title 9 of Part 1 of the Penal Code.

(f) The State Fire Marshal and assistant or deputy state fire marshals appointed pursuant to Section 13103 of the Health and Safety Code, provided that the primary duty of any such peace officer shall be the enforcement of the law as that duty is set forth in Section 13104 of such code.

(g) Inspectors of the Food and Drug Section as are designated by the chief pursuant to subdivision (a) of Section 216 of the Health and Safety Code, provided that the primary duty of any such peace officer shall be the enforcement of the law as that duty is set forth in Section 216 of such code.

(h) All investigators of the Division of Labor Standards Enforcement, as designated by the Labor Commissioner, provided that the primary duty of any such peace officer shall be enforcement of the law as prescribed in Section 95 of the Labor Code.

(i) All investigators of the State Departments of Health Services, Social Services, Mental Health, Developmental Services, and Alcohol and Drug Programs and the Office of Statewide Health Planning and Development, provided that the primary duty of any such peace officer shall be the enforcement of the law relating to the duties of his department, or office.

(j) Marshals and police appointed by the Director of Parks and Recreation pursuant to Section 3324 of the Food and Agricultural Code, provided that the primary duty of any such peace officer shall

be the enforcement of the law as prescribed in Section 3324 of the Food and Agricultural Code.

(k) The Chief of the Bureau of Fraudulent Claims of the Department of Insurance and such investigators as designated by him, provided that the primary duty of such investigators shall be enforcement of the provisions of Section 556 of the Insurance Code.

SEC. 8. Section 830.31 of the Penal Code is repealed.

SEC. 9. Section 830.31 is added to the Penal Code, to read:

830.31. The following persons are peace officers whose authority extends to any place in the state for the purpose of performing their primary duty or when making an arrest pursuant to Section 836 as to any public offense with respect to which there is immediate danger to person or property, or of the escape of the perpetrator of such offense, or pursuant to Section 8597 or Section 8598 of the Government Code. Such peace officers may carry firearms only if authorized and under such terms and conditions as are specified by their employing agency.

(a) Members of an arson-investigating unit, regularly employed and paid as such, of a fire protection agency of the state, of a county, city, or district, and members of a fire department or fire protection agency of the state, or a county, city, or district regularly paid and employed as such, provided that the primary duty of arson investigators shall be the detection and apprehension of persons who have violated any fire law or committed insurance fraud, and the primary duty of fire department or fire protection agency members other than arson investigators when acting as peace officers shall be the enforcement of laws relating to fire prevention and fire suppression.

(b) Persons designated by a local agency as park rangers, and regularly employed and paid as such, provided that the primary duty of any such peace officer shall be the protection of park property and the preservation of the peace therein.

(c) Members of a community college police department appointed pursuant to Section 72330 of the Education Code, provided that the primary duty of any such peace officer shall be the enforcement of the law as prescribed in Section 72330 of the Education Code.

(d) A welfare fraud or child support investigator or inspector, regularly employed and paid as such by a county, provided that the primary duty of any such peace officer shall be the enforcement of the provisions of the Welfare and Institutions Code and Section 270 of this code.

(e) The coroner and deputy coroners, regularly employed and paid as such, of a county, provided that the primary duty of any such peace officer are those duties set forth in Sections 27469 and 27491 to 27491.4, inclusive, of the Government Code.

(f) A member of the San Francisco Bay Area Rapid Transit District Police Department appointed pursuant to Section 28767.5 of the Public Utilities Code, provided that the primary duty of any such

peace officer shall be the enforcement of the law in or about properties owned, operated, or administered by the district or when performing necessary duties with respect to patrons, employees, and properties of the district.

(g) Harbor police regularly employed and paid as such by a county, city or district other than peace officers authorized under Section 830.1, and the port warden and special officers of the Harbor Department of the City of Los Angeles, provided that the primary duty of any such peace officer shall be the enforcement of the law in or about the properties owned, operated, or administered by the harbor or port or when performing necessary duties with respect to patrons, employees, and properties of the harbor or port.

(h) Persons designated as a security officer by a municipal utility district pursuant to Section 12820 of the Public Utilities Code, provided that the primary duty of any such officer shall be the protection of the properties of the utility district and the protection of the persons thereon.

SEC. 10. Section 830.35 of the Penal Code is repealed.

SEC. 11. Section 830.36 of the Penal Code is repealed.

SEC. 12. Section 830.4 of the Penal Code is amended to read:

830.4. The following persons are peace officers while engaged in the performance of their duties in or about the properties owned, operated, or administered by their employing agency, or when they are required by their employer to perform their duties anywhere within the political subdivision which employs them. Such officers shall also have the authority of peace officers anywhere in the state as to an offense committed, or which there is probable cause to believe has been committed, with respect to persons or property the protection of which is the duty of such officer or when making an arrest pursuant to Section 836 of the Penal Code as to any public offense with respect to which there is an immediate danger to person or property or of the escape of the perpetrator of the offense. Such peace officers may carry firearms only if authorized by and under such terms and conditions as are specified by their employing agency:

- (a) Security officers of the California State Police Division.
- (b) The Sergeant at Arms of each house of the Legislature.
- (c) Bailiffs of the Supreme Court and of the courts of appeal.
- (d) Guards and messengers of the Treasurer's office.
- (e) Officers designated by the hospital administrator of a state hospital under the jurisdiction of the State Department of Mental Health or the State Department of Developmental Services pursuant to Section 4313 or 4493 of the Welfare and Institutions Code.
- (f) Any railroad policeman commissioned by the Governor pursuant to Section 8226 of the Public Utilities Code.
- (g) Persons employed as members of a security department of a school district pursuant to Section 39670 of the Education Code.
- (h) Security officers of the County of Los Angeles.
- (i) Housing authority patrol officers employed by the housing

authority of a city, district, county, or city and county.

(j) Transit police officers of a county, city, or district.

(k) Any person regularly employed as an airport officer by the city or county operating the airport.

SEC. 12.5. Section 830.4 of the Penal Code is amended to read:

830.4. The following persons are peace officers while engaged in the performance of their duties in or about the properties owned, operated, or administered by their employing agency, or when they are required by their employer to perform their duties anywhere within the political subdivision which employs them. Such officers shall also have the authority of peace officers anywhere in the state as to an offense committed, or which there is probable cause to believe has been committed, with respect to persons or property the protection of which is the duty of such officer or when making an arrest pursuant to Section 836 of the Penal Code as to any public offense with respect to which there is an immediate danger to person or property or of the escape of the perpetrator of the offense. Such peace officers may carry firearms only if authorized by and under such terms and conditions as are specified by their employing agency:

(a) Security officers of the California State Police Division.

(b) The Sergeant at Arms of each house of the Legislature.

(c) Bailiffs of the Supreme Court and of the courts of appeal.

(d) Guards and messengers of the Treasurer's office.

(e) Officers designated by the hospital administrator of a state hospital under the jurisdiction of the State Department of Mental Health or the State Department of Developmental Services, and police officers designated by him pursuant to Section 4313 or 4493 of the Welfare and Institutions Code.

(f) Any railroad policeman appointed pursuant to Section 8226 of the Public Utilities Code.

(g) Persons employed as members of a security department of a school district pursuant to Section 39670 of the Education Code.

(h) Security officers of the County of Los Angeles.

(i) Housing authority patrol officers employed by the housing authority of a city, district, county, or city and county.

(j) Transit police officers of a county, city, or district.

(k) Any person regularly employed as an airport officer by the city or county operating the airport.

SEC. 13. Section 830.5 of the Penal Code is amended to read:

830.5. The following persons are peace officers whose authority extends to any place in the state while engaged in the performance of the duties of their respective employment and for the purpose of carrying out the primary function of their employment or as required under Sections 8597, 8598, and 8617 of the Government Code. Such peace officer may carry firearms only if authorized and under such terms and conditions as are specified by their employing agency:

(a) A parole officer of the Department of Corrections or the

Department of the Youth Authority, probation officer, or deputy probation officer. Except as otherwise provided in this subdivision, the authority of such parole or probation officer shall extend only (1) to conditions of parole or of probation by any person in this state on parole or probation; (2) to the escape of any inmate or ward from a state or local institution; (3) to the transportation of such persons; and (4) to violations of any penal provisions of law which are discovered in the course of and arise in connection with his employment.

(b) A correctional officer employed by the Department of Corrections or any employee of the Department of the Youth Authority having custody of wards or any employee of the Department of Corrections designated by the Director of Corrections or employee of the Board of Prison Terms designated by the Secretary of the Youth and Adult Correctional Agency or employee of the Department of the Youth Authority designated by the Director of the Department of the Youth Authority, any superintendent, supervisor, or employee having custody of wards in an institution operated by a probation department, and any transportation officer of a probation department.

SEC. 14. Section 830.5a of the Penal Code is repealed.

SEC. 15. Section 830.6 of the Penal Code is amended to read:

830.6. (a) Whenever any qualified person is deputized or appointed by the proper authority as a reserve or auxiliary sheriff or city policeman, a deputy sheriff, a reserve police officer of a regional park district, or a deputy of the Department of Fish and Game, and is assigned specific police functions by such authority, such person is a peace officer; provided, such person qualifies as set forth in Section 832.6, and provided further, that the authority of such person as a peace officer shall extend only for the duration of such specific assignment.

(b) Whenever any person is summoned to the aid of any uniformed peace officer, such person shall be vested with such powers of a peace officer as are expressly delegated him by the summoning officer or as are otherwise reasonably necessary to properly assist such officer.

SEC. 15.5. Section 830.6 of the Penal Code is amended to read:

830.6. (a) (1) Whenever any qualified person is deputized or appointed by the proper authority as a reserve or auxiliary sheriff or city policeman, a deputy sheriff, a reserve police officer of a regional park district, or a deputy of the Department of Fish and Game, and is assigned specific police functions by such authority, such person is a peace officer; provided, such person qualifies as set forth in Section 832.6, and provided further, that the authority of such person as a peace officer shall extend only for the duration of such specific assignment.

(2) Whenever any qualified person is deputized or appointed by the proper authority as a reserve or auxiliary sheriff or city policeman, a deputy sheriff, or a reserve police officer of a regional

park district, and is so designated by local ordinance or, if the local agency is not authorized to act by ordinance, by resolution, either individually or by class, and is assigned to the prevention and detection of crime and the general enforcement of the laws of this state by such authority, such person is a peace officer; provided such person qualifies as set forth in paragraph (1) of subdivision (a) of Section 832.6, and provided further, that the authority of such person shall include the full powers and duties of a peace officer as provided by Section 830.1.

(b) Whenever any person is summoned to the aid of any uniformed peace officer, such person shall be vested with such powers of a peace officer as are expressly delegated him by the summoning officer or as are otherwise reasonably necessary to properly assist such officer.

SEC. 16. Section 830.7 of the Penal Code is repealed.

SEC. 17. Section 830.7 is added to the Penal Code, to read:

830.7. The following persons are not peace officers but may exercise the powers of arrest of a peace officer as specified in Section 836 during the course and within the scope of their employment, provided that they receive a course in the exercise of such powers pursuant to Section 832:

(a) Persons designated by a cemetery authority pursuant to Section 8325 of the Health and Safety Code.

(b) Persons regularly employed as security officers for institutions of higher education, recognized under subdivision (a) of Section 94310 of the Education Code, provided that such institution has concluded a memorandum of understanding, permitting the exercise of such authority, with the sheriff or chief of police within whose jurisdiction the institution lies.

SEC. 18. Section 830.8 is added to the Penal Code, to read:

830.8. (a) Federal criminal investigators are not California peace officers but may exercise the powers of arrest of a peace officer as specified in Section 836 and the powers of a peace officer specified in Section 5150 of the Welfare and Institutions Code for violations of state or local laws provided that such investigators are engaged in the enforcement of federal criminal laws and exercise such arrest powers only incidental to the performance of their federal duties. Such investigators, prior to the exercise of such arrest powers shall have been certified by their agency heads as having satisfied the training requirements of Section 832.

(b) Duly authorized federal employees, are peace officers, when they are engaged in enforcing applicable state or local laws on property owned or possessed by the United States government and with the written consent of the sheriff or the chief of police, respectively, in whose jurisdiction such property is situated.

SEC. 19. Section 830.10 of the Penal Code is repealed.

SEC. 20. Section 830.10 is added to the Penal Code, to read:

830.10. Any uniformed peace officer shall wear a badge, nameplate, or other device which bears clearly on its face the

identification number or name of such officer.

SEC. 21. Section 830.11 of the Penal Code is repealed.

SEC. 22. Section 831 of the Penal Code is amended to read:

831. (a) A custodial officer is a public officer, not a peace officer, employed by a law enforcement agency of a city or county who has the authority and responsibility for maintaining custody of prisoners and performs tasks related to the operation of a local detention facility used for the detention of persons usually pending arraignment or upon court order either for their own safekeeping or for the specific purpose of serving a sentence therein.

(b) A custodial officer shall have no right to carry or possess firearms in the performance of his prescribed duties.

(c) Every person, prior to actual assignment as a custodial officer, shall have satisfactorily completed the Commission on Peace Officer Standards and Training courses specified in Section 832 and the jail operations training course created under the minimum standards for local detention facilities established by the Board of Corrections pursuant to Section 6030.

(d) At any time 20 or more custodial officers are on duty, there shall be at least one peace officer, as described in Section 830.1, on duty at the same time to supervise the performance of the custodial officers.

(e) This section shall not be construed to confer any authority upon any custodial officer except while on duty.

(f) A custodial officer may use reasonable force in establishing and maintaining custody of persons delivered to him by a law enforcement officer; may make arrests for misdemeanors and felonies within the local detention facility pursuant to a duly issued warrant; may release without further criminal process persons arrested for intoxication; and may release misdemeanants on citation to appear in lieu of or after booking.

SEC. 23. Section 832.4 of the Penal Code is amended to read:

832.4. Any undersheriff or deputy sheriff of a county, any policeman of a city, and any policeman of a district authorized by statute to maintain a police department, who is first employed after January 1, 1974, and is responsible for the prevention and detection of crime and the general enforcement of the criminal laws of this state, shall obtain the basic certificate issued by the Commission on Peace Officer Standards and Training within 18 months of his employment in order to continue to exercise the powers of a peace officer after the expiration of such 18-month period.

SEC. 24. Section 12027 of the Penal Code is amended to read:

12027. Section 12025 does not apply to or affect any of the following:

(a) Peace officers listed in Section 830.1 or 830.2 whether active or honorably retired, other duly appointed peace officers, full-time paid peace officers of other states and the federal government who are carrying out official duties while in California, or any person summoned by any such officers to assist in making arrests or

preserving the peace while he is actually engaged in assisting such officer.

The agency from which a peace officer is honorably retired may, upon initial retirement of the peace officer, or at anytime subsequent thereto, deny or revoke, for good cause, the retired officer's privilege to carry a weapon as provided in this subdivision.

A retired peace officer shall petition the issuing agency for renewal of his or her privilege to carry a concealed firearm every five years. Any peace officer who has been honorably retired shall be issued an identification certificate containing an endorsement by the issuing agency indicating whether or not the retired peace officer has the privilege to carry a weapon pursuant to this subdivision and the date when the endorsement is to be reviewed again.

(b) The possession or transportation by any merchant of unloaded firearms as merchandise.

(c) Members of the Army, Navy, or Marine Corps of the United States, or the National Guard, when on duty, or organizations which are by law authorized to purchase or receive such weapons from the United States or this state.

(d) Duly authorized military or civil organizations while parading, or the members thereof when going to and from the places of meeting of their respective organizations.

(e) Guards or messengers of common carriers, banks, and other financial institutions while actually employed in and about the shipment, transportation, or delivery of any money, treasure, bullion, bonds, or other thing of value within this state.

(f) Members of any club or organization organized for the purpose of practicing shooting at targets upon established target ranges, whether public or private, while such members are using any of the firearms referred to in this chapter upon such target ranges, or while going to and from such ranges.

(g) Licensed hunters or fishermen while engaged in hunting or fishing, or while going to or returning from such hunting or fishing expedition.

(h) Members of any club or organization organized for the purpose of collecting and displaying antique or historical pistols, revolvers or other firearms, while such members are displaying such weapons at meetings of such clubs or organizations or while going to and from such meetings, or individuals who collect such firearms not designed to fire, or incapable of firing fixed cartridges or fixed shot shells, or other firearms of obsolete ignition type for which ammunition is not readily available and which are generally recognized as collector's items, provided such firearm is kept in the trunk. If the vehicle is not equipped with a trunk, such firearm shall be kept in a locked container in an area of the vehicle other than the utility or glove compartment.

SEC. 25. Section 12031 of the Penal Code is amended to read:

12031. (a) Except as provided in subdivision (b), (c), or (d), every person who carries a loaded firearm on his person or in a

vehicle while in any public place or on any public street in an incorporated city or in any public place or on any public street in a prohibited area of unincorporated territory is guilty of a misdemeanor.

(b) Subdivision (a) shall not apply to any of the following:

(1) Peace officers listed in Section 830.1 or 830.2, whether active or honorably retired, other duly appointed peace officers, full-time paid peace officers of other states and the federal government who are carrying out official duties while in California, or any person summoned by any such officers to assist in making arrests or preserving the peace while he is actually engaged in assisting such officer.

The agency from which a peace officer is honorably retired may, upon initial retirement of the peace officer, or at any time subsequent thereto, deny or revoke, for good cause, the retired officer's privilege to carry a weapon as provided in this paragraph. A retired peace officer shall petition the issuing agency for renewal of his or her privilege to carry a loaded firearm in public every five years. Any peace officer who has been honorably retired shall be issued an identification certificate containing an endorsement by the issuing agency indicating whether or not the retired peace officer has the privilege to carry a weapon pursuant to this paragraph and the date when the endorsement is to be reviewed again.

(2) Members of the military forces of this state or of the United States engaged in the performance of their duties.

(3) Persons who are using target ranges for the purpose of practice shooting with a firearm or who are members of shooting clubs while hunting on the premises of such clubs.

(4) The carrying of concealable weapons by persons who are authorized to carry such weapons pursuant to Article 3 (commencing with Section 12050) of Chapter 1 of Title 2 of Part 4 of the Penal Code.

(5) Armored vehicle guards, as defined in Section 7521 of the Business and Professions Code, (A) if hired prior to January 1, 1977; or (B) if hired on or after such date, if they have received a Firearms Qualification Card from the Department of Consumer Affairs, in each case while acting within the course and scope of their employment.

(c) Subdivision (a) shall not apply to any of the following who have completed a regular course in firearms training approved by the Commission on Peace Officer Standards and Training:

(1) Patrol special police officers appointed by the police commission of any city, county, or city and county under the express terms of its charter who also under the express terms of the charter (i) are subject to suspension or dismissal after a hearing on charges duly filed with the commission after a fair and impartial trial, (ii) must be not less than 18 years of age nor more than 40 years of age, (iii) must possess physical qualifications prescribed by the commission, and (iv) are designated by the police commission as the

owners of a certain beat or territory as may be fixed from time to time by the police commission.

(2) The carrying of weapons by animal control officers or zookeepers, regularly compensated as such by a governmental agency when acting in the course and scope of their employment and when designated by a local ordinance or, if the governmental agency is not authorized to act by ordinance, by a resolution, either individually or by class, to carry such weapons, or by persons who are authorized to carry such weapons pursuant to Section 607f of the Civil Code, while actually engaged in the performance of their duties pursuant to such section.

(3) Harbor policemen designated pursuant to Section 663.5 of the Harbors and Navigation Code.

(d) Subdivision (a) shall not apply to any of the following who have been issued a certificate pursuant to Section 12033. Such certificate shall not be required of any person who is a peace officer, who has completed all training required by law for the exercise of his power as a peace officer, and who is employed while not on duty as such peace officer.

(1) Guards or messengers of common carriers, banks, and other financial institutions while actually employed in and about the shipment, transportation, or delivery of any money, treasure, bullion, bonds, or other thing of value within this state.

(2) Guards of contract carriers operating armored vehicles pursuant to California Highway Patrol and Public Utilities Commission authority (i) if hired prior to January 1, 1977; or (ii) if hired on or after January 1, 1977, if they have completed a course in the carrying and use of firearms which meets the standards prescribed by the Department of Consumer Affairs.

(3) Private investigators, private patrol operators, and alarm company operators who are licensed pursuant to Chapter 11 (commencing with Section 7500) of Division 3 of the Business and Professions Code, while acting within the course and scope of their employment.

(4) Uniformed security guards or night watchmen employed by any public agency, while acting within the scope and in the course of their employment.

(5) Uniformed security guards, regularly employed and compensated as such by persons engaged in any lawful business, while actually engaged in protecting and preserving the property of their employers and uniformed alarm agents employed by an alarm company operator while on duty. Nothing in this paragraph shall be construed to prohibit cities and counties from enacting ordinances requiring alarm agents to register their name.

(6) Uniformed employees of private patrol operators and uniformed employees of private investigators licensed pursuant to Chapter 11 (commencing with Section 7500) of Division 3 of the Business and Professions Code while acting within the course and scope of their employment as private patrolmen or private

investigators.

(e) In order to determine whether or not a firearm is loaded for the purpose of enforcing this section, peace officers are authorized to examine any firearm carried by anyone on his person or in a vehicle while in any public place or on any public street in an incorporated city or prohibited area of an unincorporated territory. Refusal to allow a peace officer to inspect a firearm pursuant to the provisions of this section constitutes probable cause for arrest for violation of this section.

(f) As used in this section "prohibited area" means any place where it is unlawful to discharge a weapon.

(g) A firearm shall be deemed to be loaded for the purposes of this section when there is an unexpended cartridge or shell, consisting of a case which holds a charge of powder and a bullet or shot, in, or attached in any manner to, the firearm, including, but not limited to, in the firing chamber, magazine, or clip thereof attached to the firearm; except that a muzzle-loader firearm shall be deemed to be loaded when it is capped or primed and has a powder charge and ball or shot in the barrel or cylinder.

(h) Nothing in this section shall prevent any person engaged in any lawful business, including a nonprofit organization, or any officer, employee, or agent authorized by such person for lawful purposes connected with such business, from having a loaded firearm within such person's place of business, or any person in lawful possession of private property from having a loaded firearm on such property.

(i) Nothing in this section shall prevent any person from carrying a loaded firearm in an area within an incorporated city while engaged in hunting, during such time and in such area as the hunting is not prohibited by the city council.

(j) Nothing in this section is intended to preclude the carrying of any loaded firearm, under circumstances where it would otherwise be lawful, by a person who reasonably believes that the person or property of himself or another is in immediate danger and that the carrying of such weapon is necessary for the preservation of such person or property.

(k) Nothing in this section is intended to preclude the carrying of a loaded firearm by any person while engaged in the act of making or attempting to make a lawful arrest.

(l) Nothing in this section shall prevent any person from having a loaded weapon, if it is otherwise lawful, at his place of residence, including any temporary residence or campsite.

SEC. 26. Section 13012 of the Penal Code is amended to read:
13012. The annual report of the department provided for in Section 13010 shall contain statistics showing:

(a) The amount and the types of offenses known to the public authorities;

(b) The personal and social characteristics of criminals and delinquents; and

(c) The administrative actions taken by law enforcement, judicial, penal and correctional agencies or institutions in dealing with criminals or delinquents.

(d) The number of citizens complaints received by law enforcement agencies under Section 832.5. Such statistics shall indicate the total number of such complaints, the number alleging criminal conduct of either a felony or misdemeanor, and the number sustained in each category. The report shall not contain a reference to any individual agency but shall be by gross numbers only.

It shall be the duty of the department to give adequate interpretation of such statistics and so to present the information that it may be of value in guiding the policies of the Legislature and of those in charge of the apprehension, prosecution and treatment of the criminals and delinquents, or concerned with the prevention of crime and delinquency. The report shall include also statistics which are comparable with national uniform criminal statistics published by federal bureaus or departments heretofore mentioned.

SEC. 26.5. Section 165 of the Vehicle Code is amended to read:

165. An authorized emergency vehicle is:

(a) Any publicly owned ambulance, lifeguard or lifesaving equipment or any privately owned ambulance used to respond to emergency calls and operated under a license issued by the Commissioner of the California Highway Patrol.

(b) Any publicly owned vehicle operated by the following persons, agencies, or organizations:

(1) Any federal, state, or local agency or department employing peace officers as that term is defined in Chapter 4.5 (commencing with Section 830) of Part 2 of Title 3 of the Penal Code, for use by such officers in the performance of their duties.

(2) Any forestry or fire department of any public agency or fire department organized as provided in the Health and Safety Code.

(c) Any vehicle owned by the state, or any bridge and highway district, and equipped and used either for fighting fires, or towing or servicing other vehicles, caring for injured persons, or repairing damaged lighting or electrical equipment.

(d) Any state-owned vehicle used in responding to emergency fire, rescue or communications calls and operated either by the Office of Emergency Services or by any public agency or industrial fire department to which the Office of Emergency Services has assigned such vehicle.

(e) Any vehicle owned or operated by any department or agency of the United States government when such vehicle is used in responding to emergency fire, ambulance, or lifesaving calls.

(f) Any vehicle for which an authorized emergency vehicle permit has been issued by the Commissioner of the California Highway Patrol.

SEC. 27. Section 165.3 of the Vehicle Code is repealed.

SEC. 28. Section 165.4 of the Vehicle Code is repealed.

SEC. 29. Section 1808.4 of the Vehicle Code is amended to read:

(f) When any vehicle, except any highway maintenance or construction equipment, is left unattended for more than four hours upon the right-of-way of any freeway which has full control of access and no crossings at grade.

(g) When the person or persons in charge of a vehicle upon a highway are by reason of physical injuries or illness incapacitated to such an extent as to be unable to provide for its custody or removal.

(h) When an officer arrests any person driving or in control of a vehicle for an alleged offense and the officer is by this code or other law required or permitted to take, and does take, the person arrested before a magistrate without unnecessary delay.

(i) When any vehicle registered in a foreign jurisdiction is found upon a highway and it is known to have been issued five or more notices of parking violation over a period of five or more days, to which the owner or person in control of the vehicle has not responded, the vehicle may be impounded until such person furnishes to the impounding law enforcement agency evidence of his identity and an address within this state at which he can be located and satisfactory evidence that bail has been deposited for all notices of parking violation issued for the vehicle. A notice of parking violation issued to such a vehicle shall be accompanied by a warning that repeated violations may result in the impounding of the vehicle. In lieu of requiring satisfactory evidence that such bail has been deposited, the impounding law enforcement agency may, in its discretion, issue a notice to appear for the offenses charged, as provided in Article 2 (commencing with Section 40500) of Chapter 2 of Division 17. In lieu of either furnishing satisfactory evidence that such bail has been deposited or accepting the notice to appear, such person may demand to be taken without unnecessary delay before a magistrate within the county in which the offenses charged are alleged to have been committed and who has jurisdiction of the offenses and is nearest or most accessible with reference to the place where the vehicle is impounded.

(j) When any vehicle is found illegally parked and there are no license plates or other evidence of registration displayed, the vehicle may be impounded until the owner or person in control of the vehicle furnishes the impounding law enforcement agency evidence of his identity and an address within this state at which he can be located.

(k) When any vehicle is parked or left standing upon a highway for 72 or more consecutive hours in violation of a local ordinance authorizing removal.

(l) When any vehicle is illegally parked on a highway in violation of any local ordinance forbidding standing or parking and the use of a highway or a portion thereof is necessary for the cleaning, repair, or construction of the highway, or for the installation of underground utilities, and signs giving notice that such a vehicle may be removed are erected or placed at least 24 hours prior to the removal by local authorities pursuant to the ordinance.

(m) Wherever the use of the highway or any portion thereof is authorized by local authorities for a purpose other than the normal flow of traffic or for the movement of equipment, articles, or structures of unusual size, and the parking of any vehicle would prohibit or interfere with such use or movement, and signs giving notice that such a vehicle may be removed are erected or placed at least 24 hours prior to the removal by local authorities pursuant to the ordinance.

(n) Whenever any vehicle is parked or left standing where local authorities by resolution or ordinance have prohibited such parking and have authorized the removal of vehicles. No vehicle may be removed unless signs are posted giving notice of the removal.

SEC. 32. Section 22653 of the Vehicle Code is amended to read:

22653. (a) Any peace officer, as that term is defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, other than an employee directing traffic or enforcing parking laws and regulations, may remove a vehicle from private property located within the territorial limits in which the officer is empowered to act, when a report has previously been made that the vehicle has been stolen or a complaint has been filed and a warrant thereon issued charging that the vehicle has been embezzled.

(b) Any peace officer, as that term is defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, may, after a reasonable period of time, remove a vehicle from private property located within the territorial limits in which the officer is empowered to act, if the vehicle has been involved in, and left at the scene of, a traffic accident and no owner is available to grant permission to remove the vehicle. This subdivision does not authorize the removal of a vehicle where the owner has been contacted and has refused to grant permission to remove the vehicle.

SEC. 33. Section 22654 of the Vehicle Code is amended to read:

22654. (a) Whenever any peace officer, as that term is defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, or other employee directing traffic or enforcing parking laws and regulations, finds a vehicle standing upon a highway, located within the territorial limits in which the officer or employee is empowered to act, in violation of Sections 22500 and 22504, the officer or employee may move the vehicle or require the driver or other person in charge of the vehicle to move it to the nearest available position off the roadway or to the nearest parking location, or may remove and store the vehicle if moving it off the roadway to a parking location is impracticable.

(b) Whenever such an officer or employee finds a vehicle standing upon a street, located within the territorial limits in which the officer or employee is empowered to act, in violation of a traffic ordinance enacted by local authorities to prevent flooding of adjacent property, he or she may move the vehicle or require the driver or person in charge of the vehicle to move it to the nearest available location in the vicinity where parking is permitted.

(c) Any state, county, or city authority charged with the maintenance of any highway may move any vehicle which is disabled or abandoned or which constitutes an obstruction to traffic from the place where it is located on a highway to the nearest available position on the same highway as may be necessary to keep the highway open or safe for public travel. In addition, employees of the Department of Transportation may remove any disabled vehicle which constitutes an obstruction to traffic on a freeway from the place where it is located to the nearest available location where parking is permitted; and if the vehicle is unoccupied, the department shall comply with the notice requirements of subdivision (d) of this section.

(d) Any state, county, or city authority charged with the maintenance or operation of any highway, highway facility, or public works facility, in cases necessitating the prompt performance of any work on or service to such highway, highway facility, or public works facility, may move to the nearest available location where parking is permitted, any unattended vehicle which obstructs or interferes with the performance of such work or service or may remove and store such a vehicle if moving it off the roadway to a location where parking is permitted would be impracticable. If the vehicle is moved to another location where it is not readily visible from its former parked location or it is stored, the person causing such movement or storage of the vehicle shall immediately, by the most expeditious means, notify the owner of the vehicle of its location. If for any reason the vehicle owner cannot be so notified, the person causing the vehicle to be moved or stored shall immediately, by the most expeditious means, notify the police department of the city in which the vehicle was parked, or, if the vehicle had been parked in an unincorporated area of a county, notify the sheriff's department and nearest office of the California Highway Patrol in that county. No vehicle may be removed and stored pursuant to this subdivision unless signs indicating that no person shall stop, park, or leave standing any vehicle within the areas marked by the signs because such work or service would be done, were placed at least 24 hours prior to such movement or removal and storage.

SEC. 34. Section 22655 of the Vehicle Code is amended to read: 22655. (a) When any peace officer, as that term is defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, has reasonable cause to believe that a motor vehicle on a highway or on private property open to the general public onto which the public is explicitly or implicitly invited, located within the territorial limits in which the officer is empowered to act, has been involved in a hit-and-run accident, and the operator of the vehicle has failed to stop and comply with the provisions of Sections 20002 to 20006, inclusive, the officer may remove the vehicle from the highway or from public or private property for the purpose of inspection.

(b) Unless sooner released, the vehicle shall be released upon the

expiration of 48 hours after such removal from the highway or private property upon demand of the owner. When determining the 48-hour period, weekends, and holidays shall not be included.

(c) Notwithstanding subdivision (b), when a motor vehicle to be inspected pursuant to subdivision (a) is a commercial vehicle, any cargo within the vehicle may be removed or transferred to another vehicle.

This section shall not be construed to authorize the removal of any vehicle from an enclosed structure on private property which is not open to the general public.

SEC. 35. Section 22656 of the Vehicle Code is amended to read:

22656. Any peace officer, as that term is defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, may remove a vehicle from a railroad right-of-way located within the territorial limits in which the officer is empowered to act if the vehicle is parked upon any railroad track or within 7½ feet of the nearest rail.

SEC. 36. Section 22657.5 of the Vehicle Code is repealed.

SEC. 37. Section 22659 of the Vehicle Code is repealed.

SEC. 38. Section 22702 of the Vehicle Code is amended to read:

22702. (a) Any peace officer, as that term is defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, or any other employee of the state, county, or city designated by an agency or department of the state or the board of supervisors or city council to perform this function, in the territorial limits in which the officer or employee is authorized to act, who has reasonable grounds to believe that the vehicle has been abandoned, may remove the vehicle from a highway or from public or private property.

(b) Any person performing a franchise or contract awarded pursuant to subdivision (a) of Section 22710, may remove a vehicle from a highway or place to which it has been removed pursuant to subdivision (c) of Section 22654 or from public or private property, after a determination by a peace officer, as that term is defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, or other designated employee of the state, county, or city in which such vehicle is located that such vehicle is abandoned.

(c) The public agency employing the officer shall make an appraisal of any such vehicle either prior to or within five days after removal.

(d) A state, county, or city employee, other than a peace officer or employee of a sheriff's department or city police department, designated to remove vehicles pursuant to this section may do so only after he has mailed or personally delivered a written report identifying the vehicle and its location to the office of the Department of the California Highway Patrol located nearest to the vehicle.

SEC. 38.2. Section 22702 of the Vehicle Code is amended and renumbered to read:

22669. (a) Any peace officer, as that term is defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, or any other employee of the state, county, or city designated by an agency or department of the state or the board of supervisors or city council to perform this function, in the territorial limits in which the officer or employee is authorized to act who has reasonable grounds to believe that the vehicle has been abandoned, as determined pursuant to Section 22523, may remove the vehicle from a highway or from public or private property.

(b) Any person performing a franchise or contract awarded pursuant to subdivision (a) of Section 22710, may remove a vehicle from a highway or place to which it has been removed pursuant to subdivision (c) of Section 22654 or from public or private property, after a determination by a peace officer, as that term is defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, or other designated employee of the state, county, or city in which such vehicle is located that such vehicle is abandoned, as determined pursuant to Section 22523.

(c) A state, county, or city employee, other than a peace officer or employee of a sheriff's department or a city police department, designated to remove vehicles pursuant to this section may do so only after he or she has mailed or personally delivered a written report identifying the vehicle and its location to the office of the Department of the California Highway Patrol located nearest to the vehicle.

SEC. 38.5. Section 5008 of the Welfare and Institutions Code is amended to read:

5008. Unless the context otherwise requires, the following definitions shall govern the construction of this part:

(a) "Evaluation" consists of multidisciplinary professional analyses of a person's medical, psychological, educational, social, financial, and legal conditions as may appear to constitute a problem. Persons providing evaluation services shall be properly qualified professionals and may be full-time employees of an agency providing evaluation services or may be part-time employees or may be employed on a contractual basis;

(b) "Court-ordered evaluation" means an evaluation ordered by a superior court pursuant to Article 2 (commencing with Section 5200) or by a court pursuant to Article 3 (commencing with Section 5225) of Chapter 2 of this part;

(c) "Intensive treatment" consists of such hospital and other services as may be indicated. Intensive treatment shall be provided by properly qualified professionals and carried out in facilities qualifying for reimbursement under the California Medical Assistance Program (Medi-Cal) set forth in Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of this code, or under Title XVIII of the federal Social Security Act and regulations thereunder. Intensive treatment may be provided in hospitals of the United States government by properly qualified professionals. Nothing in

this part shall be construed to prohibit an intensive treatment facility from also providing 72-hour treatment and evaluation;

(d) "Referral" is referral of persons by each agency or facility providing intensive treatment or evaluation services to other agencies or individuals. The purpose of referral shall be to provide for continuity of care, and may include, but need not be limited to, informing the person of available services, making appointments on the person's behalf, discussing the person's problem with the agency or individual to which the person has been referred, appraising the outcome of referrals, and arranging for personal escort and transportation when necessary. Referral shall be considered complete when the agency or individual to whom the person has been referred accepts responsibility for providing the necessary services. All persons shall be advised of available precare services which prevent initial recourse to hospital treatment or aftercare services which support adjustment to community living following hospital treatment. Such services may be provided through county welfare departments, State Department of Mental Health, Short-Doyle programs or other local agencies.

Each agency or facility providing evaluation services shall maintain a current and comprehensive file of all community services, both public and private. Such files shall contain current agreements with agencies or individuals accepting referrals, as well as appraisals of the results of past referrals;

(e) "Crisis intervention" consists of an interview or series of interviews within a brief period of time, conducted by qualified professionals, and designed to alleviate personal or family situations which present a serious and imminent threat to the health or stability of the person or the family. The interview or interviews may be conducted in the home of the person or family, or on an inpatient or outpatient basis with such therapy, or other services, as may be appropriate. Crisis intervention may, as appropriate, include suicide prevention, psychiatric, welfare, psychological, legal, or other social services;

(f) "Prepetition screening" is a screening of all petitions for court-ordered evaluation as provided in Article 2 (commencing with Section 5200) of Chapter 2, consisting of a professional review of all petitions; an interview with the petitioner and, whenever possible, the person alleged, as a result of mental disorder, to be a danger to others, or to himself, or to be gravely disabled, to assess the problem and explain the petition; when indicated, efforts to persuade the person to receive, on a voluntary basis, comprehensive evaluation, crisis intervention, referral, and other services specified in this part;

(g) "Conservatorship investigation" means investigation by an agency appointed or designated by the governing body of cases in which conservatorship is recommended pursuant to Chapter 3 (commencing with Section 5350) of this part;

(h) For purposes of Article 1 (commencing with Section 5150), Article 2 (commencing with Section 5200), and Article 4

(commencing with Section 5250) of Chapter 2 of this part, and for the purposes of Chapter 3 (commencing with Section 5350) of this part, "gravely disabled" means:

(1) A condition in which a person, as a result of a mental disorder, is unable to provide for his basic personal needs for food, clothing, or shelter; or

(2) A condition in which a person, has been found mentally incompetent under Section 1370 of the Penal Code and all of the following facts exist:

(i) The indictment or information pending against the defendant at the time of commitment charges a felony involving death, great bodily harm, or a serious threat to the physical well-being of another person.

(ii) The indictment or information has not been dismissed.

(iii) As a result of mental disorder, the person is unable to understand the nature and purpose of the proceedings taken against him and to assist counsel in the conduct of his defense in a rational manner.

For purposes of Article 3 (commencing with Section 5225) and Article 4 (commencing with Section 5250), of Chapter 2 of this part, and for the purposes of Chapter 3 (commencing with Section 5350) of this part, "gravely disabled" means a condition in which a person, as a result of impairment by chronic alcoholism, is unable to provide for his basic personal needs for food, clothing, or shelter.

The term "gravely disabled" does not include mentally retarded persons by reason of being mentally retarded alone;

(i) "Peace officer" means a duly sworn peace officer as that term is defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code who has completed the basic training course established by the Commission on Peace Officer Standards and Training, or any parole officer or probation officer specified in Section 830.5 of the Penal Code when acting in relation to cases for which he or she has a legally mandated responsibility;

(j) "Postcertification treatment" means an additional period of treatment pursuant to Article 6 (commencing with Section 5300) of Chapter 2 of this part;

(k) "Court," unless otherwise specified, means a court of record or a justice court;

(l) A gravely disabled minor is a minor who, as a result of a mental disorder, is unable to use the elements of life which are essential to health, safety, and development, including food, clothing, and shelter, even though provided to the minor by others.

SEC. 38.6. It is the intent of the Legislature, if this bill and Assembly Bill 1893 are both chaptered and become effective on or before January 1, 1981, both bills amend Section 830.4 of the Penal Code, and this bill is chaptered after Assembly Bill 1893, that Section 830.4 of the Penal Code, as amended by Section 12 of this act, shall remain operative until the effective date of Assembly Bill 1893, and that on the effective date of Assembly Bill 1893, Section 830.4 of the

Penal Code, as amended by Section 12 of this act, be further amended in the form set forth in Section 12.5 of this act to incorporate the changes in Section 830.4 proposed by Assembly Bill 1893. Therefore, if this bill and Assembly Bill 1893 are both chaptered and become effective on or before January 1, 1981, and Assembly Bill 1893 is chaptered before this bill and amends Section 830.4, Section 12.5 of this act shall become operative on the effective date of Assembly Bill 1893.

SEC. 38.7. It is the intent of the Legislature, if this bill and Assembly Bill 3217 are both chaptered and become effective on or before January 1, 1981, both bills amend Section 830.6 of the Penal Code, and this bill is chaptered after Assembly Bill 3217, that Section 830.6 of the Penal Code, as amended by Section 15 of this act, shall remain operative until the effective date of Assembly Bill 3217, and that on the effective date of Assembly Bill 3217, Section 830.6 of the Penal Code, as amended by Section 15 of this act, be further amended in the form set forth in Section 15.5 of this act to incorporate the changes in Section 830.6 proposed by Assembly Bill 3217. Therefore, if this bill and Assembly Bill 3217 are both chaptered and become effective on or before January 1, 1981, and Assembly Bill 3217 is chaptered before this bill and amends Section 830.6, Section 15.5 of this act shall become operative on the effective date of Assembly Bill 3217.

SEC. 38.8. It is the intent of the Legislature, if this bill and Senate Bill 1676 are both chaptered and become effective on or before January 1, 1981, both bills amend Section 1808.4 of the Vehicle Code, and this bill is chaptered after Senate Bill 1676, that Section 1808.4 of the Vehicle Code, as amended by Section 29 of this act, shall remain operative until the effective date of Senate Bill 1676, and that on the effective date of Senate Bill 1676, Section 1808.4 of the Vehicle Code, as amended by Section 29 of this act, be further amended in the form set forth in Section 29.5 of this act to incorporate the changes in Section 1808.4 proposed by Senate Bill 1676. Therefore, if this bill and Senate Bill 1676 are both chaptered and become effective on or before January 1, 1981, and Senate Bill 1676 is chaptered before this bill and amends Section 1808.4, Section 29.5 of this act shall become operative on the effective date of Senate Bill 1676.

SEC. 38.9. It is the intent of the Legislature, if this bill and Senate Bill 1896 are both chaptered and become effective on or before January 1, 1981, both bills amend Section 22702 of the Vehicle Code, and this bill is chaptered after Senate Bill 1896, that Section 22702 of the Vehicle Code, as amended by Section 38 of this act, shall remain operative until the effective date of Senate Bill 1896, and that on the effective date of Senate Bill 1896, Section 22702 of the Vehicle Code, as amended by Section 38 of this act, be further amended in the form set forth in Section 38.2 of this act to incorporate the changes in Section 22702 proposed by Senate Bill 1896. Therefore, if this bill and Senate Bill 1896 are both chaptered and become effective on or before January 1, 1981, and Senate Bill 1896 is chaptered before this

bill and amends Section 22702, Section 38.2 of this act shall become operative on the effective date of Senate Bill 1896.

SEC. 39. It is the intent of the Legislature that the changes effected by this act shall serve only to define peace officers, the extent of their jurisdiction, and the nature and scope of their authority, powers, and duties; and that there shall be no change in the status of individuals for purposes of retirement, workers' compensation or similar injury or death benefits, or other employee benefits.

SEC. 40. The sum of three million five hundred thousand dollars (\$3,500,000) is hereby appropriated from the Peace Officer's Training Fund to the Commission on Peace Officer Standards and Training in augmentation of Item 456 of the Budget Act of 1980 (Ch. 510, Stats. 1980) for allocation to cities, counties, cities and counties, or districts, for the purpose of reimbursing such jurisdictions for peace officer training.

SEC. 41. This act is an urgency statute necessary for the immediate peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

Federal law requires that sworn peace officers be available at boarding stations in federally regulated airports throughout the State of California. In order to comply with this federal mandate, peace officer classifications must be created which will permit local governments to employ properly authorized personnel. In addition, state law mandates the responsibility of enforcing certain laws to state employees who are not currently authorized as peace officers to investigate such offenses. This bill would so authorize them.

CHAPTER 1341

An act to amend Sections 4555, 4700 and 4701 of, to add Section 196 to, and to repeal Section 196 of, the Civil Code, relating to family law.

[Approved by Governor September 30, 1980. Filed with
Secretary of State September 30, 1980.]

The people of the State of California do enact as follows:

SECTION 1. Section 196 of the Civil Code is repealed.

SEC. 2. Section 196 is added to the Civil Code, to read:

196. The father and mother of a child have an equal responsibility to support and educate their child in the manner suitable to the child's circumstances, taking into consideration the respective earnings or earning capacities of the parents.

SEC. 3. Section 4555 of the Civil Code is amended to read:

4555. (a) A final judgment made pursuant to Section 4553 shall not prejudice nor bar the rights of either of the parties to institute

Assembly Bill No. 488

CHAPTER 803

An act to amend Sections 4497.34 and 13012 of, and to add Section 13010.5 to, the Penal Code, relating to crime, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 12, 1995. Filed
with Secretary of State October 13, 1995.]

LEGISLATIVE COUNSEL'S DIGEST

AB 488, Baca. Juvenile justice system.

(1) Existing law specifies procedures under which counties are eligible to receive funding to construct, reconstruct, remodel, or replace juvenile facilities from moneys in the County Correctional Facility Capital Expenditure and Youth Facility Bond Act of 1988. These procedures require the county to enter into a contract with the Department of the Youth Authority and begin construction or renovation work within 4 years of the operative date of the regulations that implement the provisions.

This bill would extend the period in which a county may begin construction or renovation work on juvenile facilities and still be eligible to receive funding under these provisions to within 6 years of the operative date of the regulations that implement the provisions. This bill also would require the Department of the Youth Authority to immediately reallocate unused awards to eligible participating counties, excluding moneys allocated to San Bernardino County.

(2) Existing law requires the Department of Justice to collect data necessary for the work of the department, to process, tabulate, analyze, and interpret the data, to present an annual report to the Governor containing the criminal statistics of the preceding calendar year, and to periodically review the requirements of units of government using criminal justice statistics. The department's annual report is required to contain statistics showing the administrative actions taken by law enforcement, judicial, penal, and correctional agencies or institutions in dealing with criminals or delinquents.

This bill would expressly require this report to contain statistics showing administrative actions taken by those agencies or institutions in the juvenile justice system. The bill would require the department to collect data pertaining to the juvenile justice system for statistical purposes. The bill would require that this information serve to assist the department in complying with the reporting

requirement described above, measuring the extent of juvenile delinquency, determining the need for and effectiveness of relevant legislation, and identifying long-term trends in juvenile delinquency.

The bill would appropriate \$149,000 from the General Fund to the Department of Justice for the purpose of implementing this program for the 1995-96 fiscal year, and would direct the department thereafter to implement this program using funds appropriated therefor in the Budget Act.

(3) The bill would declare that it is to take effect immediately as an urgency statute.

Appropriation: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 4497.34 of the Penal Code is amended to read:

4497.34. (a) Counties with overcrowded juvenile facilities shall not be eligible to receive funds to construct, reconstruct, remodel, or replace juvenile facilities unless they have adopted a plan to correct overcrowded conditions within their facilities which includes the use of alternatives to detention. The corrective action plan shall provide for the use of five or more methods or procedures to minimize the number of minors detained and shall be approved by the board of supervisors during or subsequent to a public hearing.

(b) To be eligible for funding under this chapter, the county shall enter into a contract with the Department of the Youth Authority and begin construction or renovation work within six years of the operative date of the regulations that implement this chapter. If a county fails to meet this requirement, any allocations or awards to that county under this chapter shall be deemed void and any moneys allocated or awarded to that county shall revert to the Department of the Youth Authority for reallocation to another county as provided by Section 4497.32. The department may waive this requirement if it determines that there are unavoidable delays in starting construction.

(c) To be eligible for funding for juvenile facilities under the County Correctional Facility Capital Expenditure Bond Act of 1986, the county shall enter into a contract with the Department of the Youth Authority and begin construction or renovation work by July 31, 1991. If a county fails to meet this requirement, all allocations or awards that have been made to that county under that act shall be deemed void and any moneys allocated or awarded to that county shall revert to the Department of the Youth Authority and are reappropriated for reallocation as provided by Section 4497.32. The department may waive this requirement if it determines that there are unavoidable delays in starting construction.

(d) Excluding moneys allocated for San Bernardino County, the Department of the Youth Authority shall immediately reallocate unused awards to eligible participating counties.

SEC. 2. Section 13010.5 is added to the Penal Code, to read:

13010.5. The department shall collect data pertaining to the juvenile justice system for statistical purposes. This information shall serve to assist the department in complying with the reporting requirement of subdivision (c) of Section 13012, measuring the extent of juvenile delinquency, determining the need for and effectiveness of relevant legislation, and identifying long-term trends in juvenile delinquency.

SEC. 3. Section 13012 of the Penal Code is amended to read:

13012. The annual report of the department provided for in Section 13010 shall contain statistics showing all of the following:

(a) The amount and the types of offenses known to the public authorities.

(b) The personal and social characteristics of criminals and delinquents.

(c) The administrative actions taken by law enforcement, judicial, penal, and correctional agencies or institutions, including those in the juvenile justice system, in dealing with criminals or delinquents.

(d) The number of citizens' complaints received by law enforcement agencies under Section 832.5. Such statistics shall indicate the total number of these complaints, the number alleging criminal conduct of either a felony or misdemeanor, and the number sustained in each category. The report shall not contain a reference to any individual agency but shall be by gross numbers only.

It shall be the duty of the department to give adequate interpretation of the statistics and so to present the information that it may be of value in guiding the policies of the Legislature and of those in charge of the apprehension, prosecution, and treatment of the criminals and delinquents, or concerned with the prevention of crime and delinquency. The report shall include also statistics which are comparable with national uniform criminal statistics published by federal bureaus or departments heretofore mentioned.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to enable counties with demonstrated need for relief of overcrowded juvenile facilities to utilize funds that they were entitled to for that purpose, but for inadvertent failure to meet a deadline for entering into a contract and beginning construction, and to enable the Department of Justice to implement the data collection program as expeditiously as possible, it is necessary that this act go into immediate effect.

SEC. 5. (a) The sum of one hundred forty-nine thousand dollars (\$149,000) is hereby appropriated from the General Fund to the Department of Justice for the purpose of implementing Sections 2 and 3 of this act for the 1995-96 fiscal year.

(b) Thereafter, the Department of Justice shall implement Sections 2 and 3 of this act using funds appropriated in the Budget Act for these purposes.

Senate Bill No. 314

CHAPTER 468

An act to amend Sections 13010.5 and 13012 of, and to add Section 13012.5 to, the Penal Code, relating to criminal statistics, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 3, 2001. Filed with
Secretary of State October 4, 2001.]

I am signing Senate Bill 314, however, I am vetoing Section 4 of the bill which would appropriate \$75,000 from the Controller for disbursement to the Department of Justice in order to implement the provisions of this bill.

I believe that the inclusion of statistical data related to minors who are subject to the jurisdiction of an adult criminal court in the Department of Justice's annual report would be beneficial in order to assess the public safety impact and fiscal consequences of trying minors as adults. However, due to the economic situation facing the State, the Department of Justice should fund the implementation of this bill through the \$350,000 of federal funding that is available from the Office of Criminal Justice Planning and through existing resources of the Department.

GRAY DAVIS, Governor

LEGISLATIVE COUNSEL'S DIGEST

SB 314, Alpert. Criminal statistics.

Existing law requires the Department of Justice to present a report to the Governor annually containing the criminal statistics of the preceding year, as specified. Existing law also requires the Department of Justice to collect data pertaining to the juvenile justice system.

This bill would require the report to contain statistics on the administrative actions taken by various branches of law enforcement and the criminal justice system in dealing with minors who are the subject of a petition or hearing in the juvenile court to transfer their case to the jurisdiction of an adult criminal court or whose cases are directly filed or otherwise initiated in an adult criminal court, as specified, beginning with the report due on July 1, 2003. This bill would also require that the data collected serve to assist the department in making this report.

This bill would appropriate the sum of \$75,000 from the General Fund to the Controller for disbursement to the Department of Justice for the purpose of these provisions.

This bill would declare that it is to take effect immediately as an urgency statute.

Appropriation: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 13010.5 of the Penal Code is amended to read:

13010.5. The department shall collect data pertaining to the juvenile justice system for statistical purposes. This information shall serve to assist the department in complying with the reporting requirement of subdivisions (c) and (d) of Section 13012, measuring the extent of juvenile delinquency, determining the need for and effectiveness of relevant legislation, and identifying long-term trends in juvenile delinquency.

SEC. 2. Section 13012 of the Penal Code is amended to read:

13012. The annual report of the department provided for in Section 13010 shall contain statistics showing all of the following:

(a) The amount and the types of offenses known to the public authorities.

(b) The personal and social characteristics of criminals and delinquents.

(c) The administrative actions taken by law enforcement, judicial, penal, and correctional agencies or institutions, including those in the juvenile justice system, in dealing with criminals or delinquents.

(d) The administrative actions taken by law enforcement, prosecutorial, judicial, penal, and correctional agencies, including those in the juvenile justice system, in dealing with minors who are the subject of a petition or hearing in the juvenile court to transfer their case to the jurisdiction of an adult criminal court or whose cases are directly filed or otherwise initiated in an adult criminal court.

(e) The number of citizens' complaints received by law enforcement agencies under Section 832.5. These statistics shall indicate the total number of these complaints, the number alleging criminal conduct of either a felony or misdemeanor, and the number sustained in each category. The report shall not contain a reference to any individual agency but shall be by gross numbers only.

It shall be the duty of the department to give adequate interpretation of the statistics and so to present the information that it may be of value in guiding the policies of the Legislature and of those in charge of the apprehension, prosecution, and treatment of the criminals and delinquents, or concerned with the prevention of crime and delinquency. The report shall also include statistics which are comparable with national uniform criminal statistics published by federal bureaus or departments heretofore mentioned.

SEC. 3. Section 13012.5 is added to the Penal Code, to read:

13012.5. (a) The annual report published by the department under Section 13010 shall, in regard to the contents required by subdivision (d) of Section 13012, include the following statewide information:

(1) The annual number of fitness hearings held in the juvenile courts under Section 707 of the Welfare and Institutions Code, and the outcomes of those hearings including orders to remand to adult criminal court, cross-referenced with information about the age, gender, ethnicity, and offense of the minors whose cases are the subject of those fitness hearings.

(2) The annual number of minors whose cases are filed directly in adult criminal court under Sections 602.5 and 707 of the Welfare and Institutions Code, cross-referenced with information about the age, gender, ethnicity, and offense of the minors whose cases are filed directly to the adult criminal court.

(3) The outcomes of cases involving minors who are prosecuted in adult criminal courts, regardless of how adult court jurisdiction was initiated, including whether the minor was acquitted or convicted, or whether the case was dismissed and returned to juvenile court, including sentencing outcomes, cross-referenced with the age, gender, ethnicity, and offense of the minors subject to these court actions.

(b) The department's annual report published under Section 13010 shall include the information described in subdivision (d) of Section 13012, as further delineated by this section, beginning with the report due on July 1, 2003, for the preceding calendar year.

SEC. 4. The sum of seventy-five thousand dollars (\$75,000) is hereby appropriated from the General Fund to the Controller for disbursement to the Department of Justice for the purpose of this act.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for the department to collect the information required under these provisions by the reporting deadline, it is necessary for this act to take effect immediately as an urgency statute.

sion in its proceedings should take into account potential stranded costs for core and noncore customers.

(3) Consider a regulatory scheme that allows both unbundled public utility gas storage service and independent gas storage companies the ability to charge market-based rates.

(4) Give expedited consideration to applications for a certificate of public convenience and necessity filed by independent gas storage companies so as to enable these companies to commence operations at a time reasonably proximate to the initiation of unbundled public utility gas storage service. Further, the commission should take appropriate consideration of the costs and benefits of a competitive gas storage market in making determinations of the public convenience and necessity in these cases.

(5) Ensure that costs borne by core customers as a result of these storage proceedings are commensurate with the benefits that core customers receive.

(e) The Public Utilities Commission is requested to report to both houses of the Legislature no later than July 1, 1993, explaining what steps the commission has taken to foster the development of a competitive natural gas storage market, including, but not limited to, a description of all commission orders, decision, rules, or regulations affecting the unbundling of public utility gas storage services, the rates charged for these services, and the amount of such services utilized by customers. In addition, the commission is requested in the report to describe the actions it has taken in connection with the development of independent gas storage companies, including, but not limited to, the issuance of certificates of public convenience and necessity, the approval of transportation tariffs, and orders providing for the interconnection of these independent gas storage facilities with the facilities of existing public utilities.

SEC. 2. Notwithstanding any other provision of law, the Director of Finance may authorize transfers from reserve funds in the Transportation Rate Fund (Section 5005, Public Utilities Code), Public Utilities Commission Utilities Reimbursement Account (Section 402, Public Utilities Code), or the Public Utilities Commission Transportation Reimbursement Account (Section 403, Public Utilities Code) for support of the Public Utilities Commission. The total of all transfers pursuant to this section shall not exceed five million dollars (\$5,000,000).

CRIMES—SEXUAL HABITUAL OFFENDERS— DEPARTMENT OF JUSTICE

CHAPTER 1338

S.B. No. 1184

AN ACT to amend Sections 290.3 and 11170 of, to add Section 13014 to, and to add Chapter 9.5 (commencing with Section 13885) to Title 6 of Part 4 of, the Penal Code, relating to sexual habitual offenders.

[Approved by Governor September 30, 1992.]

[Filed with Secretary of State September 30, 1992.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1184, Presley. Sexual habitual offenders.

(1) Existing law defines murder as the unlawful killing of a human being or a fetus with malice aforethought. Existing law also provides for 1st degree and 2nd degree murder.

This bill would direct the Department of Justice to do all of the following within its existing budget:

(a) Collect specified information on all persons who are the victims of, and all persons who are charged with, the crime of murder.

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Additions or changes indicated by underline; deletions by asterisks * * *

(b) Adopt and distribute to all state and governmental entities that are responsible for the investigation and prosecution of murder cases forms which will include information provided to the department pursuant to (2) below.

(c) Compile, collate, index, and maintain a file of the information required by (2) below, which would be made available to the general public during the normal business hours of the department.

(2) In addition, the bill would require every state or local governmental entity responsible for the investigation and prosecution of a homicide case to provide the department, on forms specified above, with specified demographic information about the victim and the person or persons charged with the crime. Because these provisions would increase the responsibilities of local governmental entities, the bill would impose a state-mandated local program.

(3) Existing law requires persons convicted of specified sex offenses who are required to register, in addition to any imprisonment or fine, or both, to pay an additional fine, as specified, unless the court determines that the defendant does not have the ability to pay the fine. Existing law also requires that an amount equal to the moneys deposited with the county treasurer under this provision be transferred to the Controller for deposit in the General Fund, to be used, upon appropriation by the Legislature, for the purposes of provisions relating to the Serious Habitual Offender Program pilot project authorized in specified counties mentioned in (6) below.

This bill would require, instead, that the moneys be used for the purposes of a statewide Sexual Habitual Offender Program proposed by this bill.

(4) Existing law, the Child Abuse and Neglect Reporting Act, requires the Department of Justice to maintain an index of all reports of child abuse submitted, as specified, to be updated continually. Existing law also requires the department to make information from the index concerning, among others, applicants for licensure or any adult who resides or is employed in a home of an applicant for licensure or who is an applicant for employment in a position having supervisory or disciplinary power over a child or children available to the State Department of Social Services or to any county licensing agency which has contracted with the state, as specified.

This bill would provide, commencing January 1, 1993, that whenever information contained in the Department of Justice files is furnished as the result of an application for employment or licensing pursuant to this provision, the Department of Justice may charge the person or entity making the request a fee not to exceed the reasonable costs to the department of providing the information, not to be increased, except as specified, and in no case to exceed \$15.

(5) Existing law requires specified sex offenders who are required to register, prior to discharge or parole from the state prison, a county jail, or specified institutions, or prior to the granting of probation or release, to submit specimens of blood and saliva samples. Existing law also requires the Department of Justice to perform DNA and other genetic typing analysis of these blood specimens and saliva samples for law enforcement purposes.

This bill would provide that the above-mentioned fee that this bill would authorize the Department of Justice to charge a person making a request for information would fund the DNA offender identification file authorized by this provision.

(6) Existing law authorizes the Serious Habitual Offender Program pilot project for 5 years in the Counties of San Francisco, San Mateo, Santa Clara, Santa Cruz, Alameda, Contra Costa, Napa, Sonoma, Solano, and Marin for the purpose of evaluating the number of arrests and convictions for sex offenses and the length of sentences for repeat offenders. The project becomes inoperative on July 1, 1994, and related provisions are to be repealed on January 1, 1995.

This bill would authorize a similar statewide Sexual Habitual Offender Program. To the extent that local counties will be required to furnish copies of existing information maintained in their files regarding persons identified by the Department of Justice as serious habitual sex offenders and provide followup information, this bill would impose a state-mandated local program.

(7) This bill would incorporate additional changes in Section 11170 of the Penal Code, proposed by AB 92, to be operative only if AB 92 and this bill are both chaptered and become effective January 1, 1993, and this bill is chaptered last.

(8) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates which do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that this bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to those statutory procedures and, if the statewide cost does not exceed \$1,000,000, shall be made from the State Mandates Claims Fund.

The people of the State of California do enact as follows:

SECTION 1. Section 290.3 of the Penal Code is amended to read:

290.3. Every person convicted of a violation of any offense listed in subdivision (a) of Section 290 * * *, in addition to any imprisonment or fine, or both, imposed for violation of the underlying offense, shall be punished by a fine of one hundred dollars (\$100) upon the first conviction or a fine of two hundred dollars (\$200) upon the second and each subsequent conviction, unless the court determines that the defendant does not have the ability to pay the fine.

Out of the moneys deposited with the county treasurer pursuant to this section, there shall be transferred, once a month, to the Controller for deposit in the General Fund, an amount equal to all fines collected during the preceding month upon conviction of, or upon the forfeiture of bail by, any person arrested for, or convicted of, committing an offense listed in Section 290. Moneys deposited in the General Fund pursuant to this section shall be deposited in the Department of Justice Sexual Habitual Offender Fund created pursuant to paragraph (5) of subdivision (b) of Section 11170 and, when appropriated by the Legislature * * *, shall be used for the purposes of Chapter 9.5 (commencing with Section 13885) and Chapter 10 (commencing with Section 13890) of Title 6 of Part 4 for the purpose of monitoring, apprehending, and prosecuting sexual habitual offenders.

SEC. 2. Section 11170 of the Penal Code is amended to read:

11170. (a) The Department of Justice shall maintain an index of all reports of child abuse submitted pursuant to Section 11169. The index shall be continually updated by the department and shall not contain any reports that are determined to be unfounded. The department may adopt rules governing recordkeeping and reporting pursuant to this article.

(b) (1) The Department of Justice shall immediately notify a child protective agency which submits a report pursuant to Section 11169, or a district attorney who requests notification, of any information maintained pursuant to subdivision (a) which is relevant to the known or suspected instance of child abuse reported by the agency. A child protective agency shall make that information available to the reporting medical practitioner, child custodian, guardian ad litem appointed under Section 326, or counsel appointed under Section 317 or 318 of the Welfare and Institutions Code, or the appropriate licensing agency, if he or she is treating or investigating a case of known or suspected child abuse.

(2) When a report is made pursuant to subdivision (a) of Section 11166, the investigating agency * * *, upon completion of the investigation or after there has been a final disposition in the matter, shall inform the person required to report of the results of the investigation and of any action the agency is taking with regard to the child or family.

(3) The department shall make available to the State Department of Social Services or to any county licensing agency which has contracted with the state for the performance of licensing duties any information received subsequent to January 1, 1981, pursuant to this section concerning any person who is an applicant for licensure or any adult who resides or is employed in the home of an applicant for licensure or who is an applicant for employment in a position having supervisorial or disciplinary power over a child or

children, or who will provide 24-hour care for a child or children in a residential home or facility, pursuant to Section 1522.1 or 1596.877 of the Health and Safety Code, or Section 222.70, 224.30, 226.52, or 227.10 of the Civil Code. If the department has information that has been received subsequent to January 1, 1981, concerning such a person, it also shall make available to the State Department of Social Services or to the county licensing agency any other information maintained pursuant to subdivision (a).

(4) Persons or agencies, as specified in subdivision (b), if investigating a case of known or suspected child abuse, or the State Department of Social Services or any county licensing agency pursuant to paragraph (3), to whom disclosure of any information maintained pursuant to subdivision (a) is authorized, are responsible for obtaining the original investigative report from the reporting agency, and for drawing independent conclusions regarding the quality of the evidence disclosed, and its sufficiency for making decisions regarding investigation, prosecution, or licensing.

(5) Effective January 1, 1993, whenever information contained in the Department of Justice files is furnished as the result of an application for employment or licensing pursuant to paragraph (3), the Department of Justice may charge the person or entity making the request a fee. The fee shall not exceed the reasonable costs to the department of providing the information. The only increase shall be at a rate not to exceed the legislatively approved cost-of-living adjustment for the department. In no case shall the fee exceed fifteen dollars (\$15).

All moneys received by the department pursuant to this paragraph shall be deposited in a special account in the General Fund which is hereby created and named the Department of Justice Sexual Habitual Offender Fund. The funds shall be available, upon appropriation by the Legislature, for expenditure by the department to offset the costs incurred pursuant to Chapter 9.5 (commencing with Section 13885) and Chapter 10 (commencing with Section 13890) of Title 6 of Part 4, and Section 290.2, and for maintenance and improvements to the statewide Sexual Habitual Offender Program and the DNA offender identification file (CAL-DNA) authorized by Chapter 9.5. (commencing with Section 13885) of Title 6 of Part 4 and Section 290.2.

SEC. 2.5. Section 11170 of the Penal Code is amended to read:

11170. (a) The Department of Justice shall maintain an index of all reports of child abuse submitted pursuant to Section 11169. The index shall be continually updated by the department and shall not contain any reports that are determined to be unfounded or that have been destroyed under Section 11169. The department may adopt rules governing recordkeeping and reporting pursuant to this article.

(b) (1) The Department of Justice shall immediately notify a child protective agency that submits a report pursuant to Section 11169, or a district attorney who requests notification, of any information maintained pursuant to subdivision (a) that is relevant to the known or suspected instance of child abuse reported by the agency. A child protective agency shall make that information available to the reporting medical practitioner, child custodian, guardian ad litem appointed under Section 326, or counsel appointed under Section 317 or 318, of the Welfare and Institutions Code, or the appropriate licensing agency, if he or she is treating or investigating a case of known or suspected child abuse.

(2) When a report is made pursuant to subdivision (a) of Section 11166, the investigating agency * * *, upon completion of the investigation or after there has been a final disposition in the matter, shall inform the person required to report of the results of the investigation and of any action the agency is taking with regard to the child or family.

(3) The department shall make available to the State Department of Social Services or to any county licensing agency that has contracted with the state for the performance of licensing duties any information received subsequent to January 1, 1981, pursuant to this section concerning any person who is an applicant for licensure or any adult who resides or is employed in the home of an applicant for licensure or who is an applicant for employment in a position having supervisory or disciplinary power over a child or children, or who will provide 24-hour care for a child or children in a residential home or facility, pursuant to Section 1522.1 or 1596.877 of the Health and Safety Code, or Section

* * * 8714, 8802, 8912, or 9000 of the Family Code. If the department has information that has been received subsequent to January 1, 1981, concerning such a person, it also shall make available to the State Department of Social Services or to the county licensing agency any other information maintained pursuant to subdivision (a).

(4) Persons or agencies, as specified in subdivision (b), if investigating a case of known or suspected child abuse, or the State Department of Social Services or any county licensing agency pursuant to paragraph (3), to whom disclosure of any information maintained pursuant to subdivision (a) is authorized, are responsible for obtaining the original investigative report from the reporting agency, and for drawing independent conclusions regarding the quality of the evidence disclosed, and its sufficiency for making decisions regarding investigation, prosecution, or licensing.

(5) Effective January 1, 1993, whenever information contained in the Department of Justice files is furnished as the result of an application for employment or licensing pursuant to paragraph (3), the Department of Justice may charge the person or entity making the request a fee. The fee shall not exceed the reasonable costs to the department of providing the information. The only increase shall be at a rate not to exceed the legislatively approved cost-of-living adjustment for the department. In no case shall the fee exceed fifteen dollars (\$15).

All the moneys received by the department pursuant to this paragraph shall be deposited in a special account in the General Fund which is hereby created and named the Department of Justice Sexual Habitual Offender Fund. The funds shall be available, upon appropriation by the Legislature, for expenditure by the department to offset the costs incurred pursuant to Chapter 9.5 (commencing with Section 13885) and Chapter 10 (commencing with Section 13890) of Title 6 of Part 4, and Section 290.2, and for maintenance and improvements to the statewide Sexual Habitual Offender Program and the DNA offender identification file (CAL-DNA) authorized by Chapter 9.5 (commencing with Section 13885) of Part 6 of Part 4 and Section 290.2.

(c) Whenever a report of suspected child abuse names a school employee and forms the basis for disciplinary action of the employee by the school employer, the school or school district, subject to Section 44031 of the Education Code or any applicable agreement adopted pursuant to Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, may maintain customary records regarding the alleged incident. However, under no circumstances shall the report of suspected child abuse itself be retained in a school employee's personnel file.

SEC. 3. Section 13014 is added to the Penal Code, to read:

13014. (a) The Department of Justice shall perform the following duties concerning the investigation and prosecution of homicide cases:

(1) Collect information, as specified in subdivision (b), on all persons who are the victims of, and all persons who are charged with, homicide.

(2) Adopt and distribute to all state and governmental entities that are responsible for the investigation and prosecution of homicide cases forms which will include information to be provided to the department pursuant to subdivision (b).

(3) Compile, collate, index, and maintain a file of the information required by subdivision (b). The file shall be available to the general public during the normal business hours of the department, and the department shall annually publish a report containing the information required by this section, which shall also be available to the general public.

The department shall perform the duties specified in this subdivision within its existing budget.

(b) Every state or local governmental entity responsible for the investigation and prosecution of a homicide case shall provide the department with demographic information about the victim and the person or persons charged with the crime, including age, gender, race, and ethnic background.

SEC. 4. Chapter 9.5 (commencing with Section 13885) is added to Title 6 of Part 4 of the Penal Code, to read:

CHAPTER 9.5. STATEWIDE SEXUAL HABITUAL OFFENDER PROGRAM

13885. The Legislature hereby finds that a substantial and disproportionate amount of sexual offenses are committed against the people of California by a relatively small number of multiple and repeat sex offenders. In enacting this chapter, the Legislature intends to support efforts of the criminal justice community through a focused effort by law enforcement and prosecuting agencies to identify, locate, apprehend, and prosecute sexual habitual offenders.

13885.2. The Attorney General, subject to the availability of funds, shall establish in the Department of Justice the Sexual Habitual Offender Program, which is hereby created, which shall evaluate the number of arrests and convictions for sex offenses and the length of sentences for repeat offenders. This shall be a statewide program.

It is the intent of the Legislature that this statewide program shall not affect the operation of the Serious Habitual Offender Program authorized by Chapter 10 (commencing with Section 13890) involving the Counties of San Francisco, San Mateo, Santa Clara, Santa Cruz, Alameda, Contra Costa, Napa, Sonoma, Solano, and Marin which shall become inoperative on July 1, 1994.

13885.4. As used in this chapter, "sexual habitual offenders" means those persons who have been either of the following:

(a) Convicted of two or more violent offenses against a person involving force or violence which include at least one sex offense.

(b) Convicted of an offense listed in Section 290 and also meet one of the following criteria:

(1) Have three or more felony arrests for sex offenses specified in Section 290 on their criminal record.

(2) Have five or more felony arrests for any type of offense on their criminal record.

(3) Have 10 or more arrests, either felony or misdemeanor, for any type of offense on their criminal record.

(4) Have five or more arrests, either felony or misdemeanor, for any type of offense, including either of the following:

(A) At least one conviction for multiple sex offenses which shall mean a conviction arising from the commission of two or more offenses listed in subdivision (a) of Section 290 in one transaction.

(B) At least two arrests for a single sex offense listed in subdivision (a) of Section 290.

13885.6. The Department of Justice shall establish and maintain a comprehensive file of existing information maintained by law enforcement agencies, the Department of Corrections, the Department of Motor Vehicles, and the Department of Justice. The Department of Justice may request the Department of Corrections, the Department of Motor Vehicles, and law enforcement agencies to provide existing information from their files regarding persons identified as sexual habitual offenders. The Department of Corrections, the Department of Motor Vehicles, and law enforcement agencies, when requested by the Department of Justice, shall provide copies of existing information maintained in their files regarding persons identified by the Department of Justice as sexual habitual offenders and shall provide followup information to the Department of Justice as it becomes available. This sexual habitual offender file shall be maintained by the Department of Justice and shall contain a complete physical description and method of operation of the sexual habitual offender, information describing his or her interaction with criminal justice agencies, and his or her prior criminal record. The Department of Justice also shall prepare a summary profile of each sexual habitual offender for distribution to law enforcement agencies.

13885.8. The Department of Justice shall provide a summary profile of each sexual habitual offender to each law enforcement agency when the individual registers in, or moves to, the area in which the law enforcement agency is located.

CHAPTER 1609

An act to add Section 13519 to, and to add and repeal Title 5 (commencing with Section 13700) to Part 4 of, the Penal Code, relating to training of peace officers, and making an appropriation therefor.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984.]

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares that:

(a) A significant number of homicides, aggravated assaults, and assaults and batteries occur within the home between adult members of families. Research shows that 35 to 40 percent of all assaults are related to domestic violence.

(b) The reported incidence of domestic violence represents only a portion of the total number of incidents of domestic violence.

(c) Twenty-three percent of the deaths of law enforcement officers in the line of duty results from intervention by law enforcement officers in incidents of domestic violence.

(d) Domestic violence is a complex problem affecting families from all social and economic backgrounds.

The purpose of this act is to address domestic violence as a serious crime against society and to assure the victims of domestic violence the maximum protection from abuse which the law and those who enforce the law can provide. It is the intent of the Legislature that the official response to cases of domestic violence shall stress the enforcement of the laws to protect the victim and shall communicate the attitude that violent behavior in the home is criminal behavior and will not be tolerated. It is not the intent of the Legislature to remove a peace officer's individual discretion where that discretion is necessary, nor is it the intent of the Legislature to hold individual peace officers liable.

SEC. 2. Section 13519 is added to the Penal Code, to read:

13519. (a) The commission shall implement by January 1, 1986, a course or courses of instruction for the training of law enforcement officers in California in the handling of domestic violence complaints and also shall develop guidelines for law enforcement response to domestic violence. The course or courses of instruction and the guidelines shall stress enforcement of criminal laws in domestic violence situations, availability of civil remedies and community resources, and protection of the victim. Where appropriate, the training presenters shall include domestic violence experts with expertise in the delivery of direct services to victims of domestic violence, including utilizing the staff of shelters for battered women in the presentation of training.

As used in this section, "law enforcement officer" means any

shall not be limited to, the following: one representative each from the California Peace Officers' Association, the Peace Officers' Research Association of California, the State Bar of California, the California Women Lawyers' Association, and the State Commission on the Status of Women; two representatives from the commission; ~~two~~ representatives from the California Alliance Against Domestic Violence; two peace officers, recommended by the commission, who are experienced in the provision of domestic violence training; and two domestic violence experts, recommended by the California Alliance Against Domestic Violence, who are experienced in the provision of direct services to victims of domestic violence. At least one of the persons selected shall be a former victim of domestic violence.

The commission, in consultation with these groups and individuals, shall review existing training programs to determine in what ways domestic violence training might be included as a part of ongoing programs.

(e) Forty thousand dollars (\$40,000) is appropriated from the Peace Officers Training Fund in augmentation of Item 8120-001-268 of the Budget Act of 1984, to support the travel, per diem, and associated costs for convening the necessary experts.

SEC. 3. Title 5 (commencing with Section 13700) is added to Part 4 of the Penal Code, to read:

TITLE 5. LAW ENFORCEMENT RESPONSE TO DOMESTIC VIOLENCE

CHAPTER 1. GENERAL PROVISIONS

13700. As used in this title:

(a) "Abuse" means intentionally or recklessly causing or attempting to cause bodily injury, or placing another person in reasonable apprehension of imminent serious bodily injury to himself, or another.

(b) "Domestic Violence" is abuse committed against an adult or fully emancipated minor who is a spouse, former spouse, cohabitant, former cohabitant, or a person with whom the suspect has had a child or has or has had a dating or engagement relationship.

(c) "Officer" means any law enforcement officer employed by a local police department or sheriff's office, consistent with Section 830.1.

(d) "Victim" means a person who is a victim of domestic violence.

13701. Every law enforcement agency in the this state shall develop, adopt, and implement written policies and standards for officers' response to domestic violence calls by January 1, 1986. These policies shall reflect that domestic violence is alleged criminal conduct. Further, they shall reflect existing policy that a request for assistance in a situation involving domestic violence is the same as any other request for assistance where violence has occurred. These

compiled by each law enforcement agency and submitted to the Attorney General.

(b) The Attorney General shall report annually to the Governor, the Legislature, and the public, the total number of domestic violence-related calls received by California law enforcement agencies, the number of cases involving weapons, and a breakdown of calls received by agency, city, and county.

(c) Each law enforcement agency shall develop an incident report form that includes a domestic violence identification code by January 1, 1986. In all incidents of domestic violence, a report shall be written and shall be thus identified on the face of the report as a domestic violence incident.

CHAPTER 5. TERMINATION

13731. This title shall remain in effect only until January 1, 1991, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1991, deletes or extends that date.

SEC. 4. The sum of twenty-five thousand dollars (\$25,000) is hereby appropriated from the General Fund to the Department of Justice for the purposes of Section 13730 of the Penal Code.

SEC. 5. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 1610

An act to add Section 14132.6 to the Welfare and Institutions Code, relating to mastectomy.

[Approved by Governor September 29, 1984. Filed with
Secretary of State September 30, 1984.]

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares that breast reconstruction incident to mastectomy is not cosmetic surgery. It is surgical restoration of a part of the body that has been lost through severe illness by no fault of the patient, and restoration shall, therefore, be considered part of the original mastectomy surgery.

SEC. 2. Section 14132.6 is added to the Welfare and Institutions Code, to read:

14132.6. External prostheses constructed of silicon or other

**BILL NUMBER: AB 2250 CHAPTERED 10/11/93
BILL TEXT**

**CHAPTER 1230
FILED WITH SECRETARY OF STATE OCTOBER 11, 1993
APPROVED BY GOVERNOR OCTOBER 11, 1993
PASSED THE SENATE SEPTEMBER 10, 1993
PASSED THE ASSEMBLY SEPTEMBER 10, 1993
AMENDED IN SENATE SEPTEMBER 8, 1993
AMENDED IN SENATE AUGUST 17, 1993
AMENDED IN SENATE JULY 16, 1993
AMENDED IN ASSEMBLY MAY 11, 1993**

INTRODUCED BY Assembly Members Speier and Collins

MARCH 5, 1993

**An act to amend Sections 13700 and 13730 of the Penal Code,
relating to domestic violence.**

LEGISLATIVE COUNSEL'S DIGEST

AB 2250, Speier. Domestic violence.

Existing law requires every law enforcement agency to develop, adopt, and implement written policies and standards for officers' response to domestic violence calls, as specified, maintain a complete and systematic record of all protection orders with respect to domestic violence incidents, as specified, and develop a system for recording all domestic violence-related calls for assistance made to the Department of Justice. Existing law also requires each law enforcement agency to develop an incident report form that includes a domestic violence identification code, as specified.

This bill would require that domestic violence-related calls for assistance, for the purposes of these provisions, be supported with the written incident report form developed under the above provisions, identifying the domestic violence incident.

Existing law defines "domestic violence" for this purpose as abuse committed against an adult or a fully emancipated minor who is a spouse, former spouse, cohabitant, former cohabitant, or person with whom the suspect has had a child or is having or has had a dating or engagement relationship.

This bill would redefine "domestic violence" for this

purpose, as abuse committed against an adult or a fully emancipated minor who is a spouse, former spouse, specified cohabitant, or former cohabitant in the case of adults, or person with whom the suspect has had a child or is having or has had a dating or engagement relationship, thereby imposing a state-mandated local program by expanding the scope of the duties of local law enforcement with regard to recording and providing written incident reports on domestic violence-related calls.

This bill would incorporate additional changes in Section 13700 of the Penal Code proposed by AB 224, to be operative only if AB 224 and this bill are both chaptered and become effective January 1, 1994, and this bill is chaptered last.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates which do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that this bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to those statutory procedures and, if the statewide cost does not exceed \$1,000,000, shall be made from the State Mandates Claims Fund.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 13700 of the Penal Code is amended to read:

13700. As used in this title:

(a) "Abuse" means intentionally or recklessly causing or attempting to cause bodily injury, or placing another person in reasonable apprehension of imminent serious bodily injury to himself or herself, or another.

(b) "Domestic violence" means abuse committed against an adult or a fully emancipated minor who is a spouse, former spouse, cohabitant, former cohabitant, or person with whom the suspect has had a child or is having or has had a dating or engagement relationship. For purposes of this subdivision, "cohabitant" means two unrelated adult persons living together for a substantial period of time, resulting in some permanency of relationship. Factors that may determine whether persons are

cohabiting include, but are not limited to, (1) sexual relations between the parties while sharing the same living quarters, (2) sharing of income or expenses, (3) joint use or ownership of property, (4) whether the parties hold themselves out as husband and wife, (5) the continuity of the relationship, and (6) the length of the relationship.

(c) "Officer" means any officer or employee of a local police department or sheriff's office, any peace officer of the Department of Parks and Recreation, as defined in subdivision (g) of Section 830.2, any peace officer of the University of California Police Department, as defined in subdivision (c) of Section 830.2, or any peace officer of the California State University Police Department, as defined in subdivision (d) of Section 830.2.

(d) "Victim" means a person who is a victim of domestic violence.

SEC. 1.5. Section 13700 of the Penal Code is amended to read:

13700. As used in this title:

(a) "Abuse" means intentionally or recklessly causing or attempting to cause bodily injury, or placing another person in reasonable apprehension of imminent serious bodily injury to himself or herself, or another.

(b) "Domestic violence" means abuse committed against an adult or a fully emancipated minor who is a spouse, former spouse, cohabitant, former cohabitant, or person with whom the suspect has had a child or is having or has had a dating or engagement relationship. For purposes of this subdivision, "cohabitant" means two unrelated adult persons living together for a substantial period of time, resulting in some permanency of relationship. Factors that may determine whether persons are cohabiting include, but are not limited to, (1) sexual relations between the parties while sharing the same living quarters, (2) sharing of income or expenses, (3) joint use or ownership of property, (4) whether the parties hold themselves out as husband and wife, (5) the continuity of the relationship, and (6) the length of the relationship.

(c) "Officer" means any officer or employee of a local police department or sheriff's office, and any peace officer of the California Highway Patrol, the California State Police, the Department of Parks and Recreation, the University of California Police Department, or the California State University and College Police Departments, as defined in Section 830.2, or a housing authority patrol officer, as defined in subdivision (d) of Section 830.31.

(d) "Victim" means a person who is a victim of domestic

violence.

SEC. 2. Section 13730 of the Penal Code is amended to read:

13730. (a) Each law enforcement agency shall develop a system, by January 1, 1986, for recording all domestic violence-related calls for assistance made to the department including whether weapons are involved. All domestic violence-related calls for assistance shall be supported with a written incident report, as described in subdivision (c), identifying the domestic violence incident. Monthly, the total number of domestic violence calls received and the numbers of those cases involving weapons shall be compiled by each law enforcement agency and submitted to the Attorney General.

(b) The Attorney General shall report annually to the Governor, the Legislature, and the public the total number of domestic violence-related calls received by California law enforcement agencies, the number of cases involving weapons, and a breakdown of calls received by agency, city, and county.

(c) Each law enforcement agency shall develop an incident report form that includes a domestic violence identification code by January 1, 1986. In all incidents of domestic violence, a report shall be written and shall be thus identified on the face of the report as a domestic violence incident.

SEC. 3. Section 1.5 of this bill incorporates amendments to Section 13700 of the Penal Code proposed by both this bill and AB 224. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1994, (2) each bill amends Section 13700 of the Penal Code, and (3) this bill is enacted after AB 224, in which case Section 1 of this bill shall not become operative.

SEC. 4. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

Senate Bill No. 132

CHAPTER 965

An act to amend Sections 13519 and 13730 of the Penal Code, relating to domestic violence.

[Approved by Governor October 16, 1995. Filed
with Secretary of State October 16, 1995.]

LEGISLATIVE COUNSEL'S DIGEST

SB 132, Watson. Domestic violence.

(1) Under existing law, the Commission on Peace Officer Standards and Training is required to implement a course or courses of instruction for the training of law enforcement officers in the handling of domestic violence complaints. The course of instruction is required to be developed by the commission in consultation with specified groups and individuals.

This bill would require each law enforcement officer below the rank of supervisor who is assigned to patrol duties and would normally respond to domestic violence calls or incidents of domestic violence to complete, every 2 years, an updated course of instruction on domestic violence. This instruction would be funded from existing resources.

Existing law requires each law enforcement agency to develop an incident report form that includes a domestic violence identification code and requires a report to be written in all incidents of domestic violence.

This bill would specify certain information to be included in a domestic violence incident report.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would impose a state-mandated local program by imposing new duties on peace officers.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

The people of the State of California do enact as follows:

SECTION 1. Section 13519 of the Penal Code is amended to read:

13519. (a) The commission shall implement by January 1, 1986, a course or courses of instruction for the training of law enforcement officers in California in the handling of domestic violence complaints and also shall develop guidelines for law enforcement response to domestic violence. The course or courses of instruction and the guidelines shall stress enforcement of criminal laws in domestic violence situations, availability of civil remedies and community resources, and protection of the victim. Where appropriate, the training presenters shall include domestic violence experts with expertise in the delivery of direct services to victims of domestic violence, including utilizing the staff of shelters for battered women in the presentation of training.

As used in this section, "law enforcement officer" means any officer or employee of a local police department or sheriff's office, any peace officer of the Department of Parks and Recreation, as defined in subdivision (g) of Section 830.2, any peace officer of the University of California Police Department, as defined in subdivision (c) of Section 830.2, any peace officer of the California State University Police Departments, as defined in subdivision (d) of Section 830.2, or a peace officer, as defined in subdivision (d) of Section 830.31.

(b) The course of basic training for law enforcement officers shall, no later than January 1, 1986, include adequate instruction in the procedures and techniques described below:

(1) The provisions set forth in Title 5 (commencing with Section 13700) relating to response, enforcement of court orders, and data collection.

(2) The legal duties imposed on police officers to make arrests and offer protection and assistance including guidelines for making felony and misdemeanor arrests.

(3) Techniques for handling incidents of domestic violence that minimize the likelihood of injury to the officer and that promote the safety of the victim.

(4) The nature and extent of domestic violence.

(5) The legal rights of, and remedies available to, victims of domestic violence.

(6) The use of an arrest by a private person in a domestic violence situation.

(7) Documentation, reportwriting, and evidence collection.

(8) Domestic violence diversion as provided in Chapter 2.6 (commencing with Section 1000.6) of Title 6 of Part 2.

(9) Tenancy issues and domestic violence.

(10) The impact on children of law enforcement intervention in domestic violence.

- (11) The services and facilities available to victims and batterers.
- (12) The use and applications of this code in domestic violence situations.
- (13) Verification and enforcement of temporary restraining orders when (A) the suspect is present and (B) the suspect has fled.
- (14) Verification and enforcement of stay-away orders.
- (15) Cite and release policies.
- (16) Emergency assistance to victims and how to assist victims in pursuing criminal justice options.

The guidelines developed by the commission shall also incorporate the foregoing factors.

(c) (1) All law enforcement officers who have received their basic training before January 1, 1986, shall participate in supplementary training on domestic violence subjects, as prescribed and certified by the commission.

(2) Except as provided in paragraph (3), the training specified in paragraph (1) shall be completed no later than January 1, 1989.

(3) (A) The training for peace officers of the Department of Parks and Recreation, as defined in subdivision (g) of Section 830.2, shall be completed no later than January 1, 1992.

(B) The training for peace officers of the University of California Police Department and the California State University Police Departments, as defined in Section 830.2, shall be completed no later than January 1, 1993.

(C) The training for peace officers employed by a housing authority, as defined in subdivision (d) of Section 830.31, shall be completed no later than January 1, 1995.

(4) Local law enforcement agencies are encouraged to include, as a part of their advanced officer training program, periodic updates and training on domestic violence. The commission shall assist where possible.

(d) The course of instruction, the learning and performance objectives, the standards for the training, and the guidelines shall be developed by the commission in consultation with appropriate groups and individuals having an interest and expertise in the field of domestic violence. The groups and individuals shall include, but shall not be limited to, the following: one representative each from the California Peace Officers' Association, the Peace Officers' Research Association of California, the State Bar of California, the California Women Lawyers' Association, and the State Commission on the Status of Women; two representatives from the commission; two representatives from the California Alliance Against Domestic Violence; two peace officers, recommended by the commission, who are experienced in the provision of domestic violence training; and two domestic violence experts, recommended by the California Alliance Against Domestic Violence, who are experienced in the provision of direct services to victims of domestic violence. At least

one of the persons selected shall be a former victim of domestic violence.

The commission, in consultation with these groups and individuals, shall review existing training programs to determine in what ways domestic violence training might be included as a part of ongoing programs.

(e) Each law enforcement officer below the rank of supervisor who is assigned to patrol duties and would normally respond to domestic violence calls or incidents of domestic violence shall complete, every two years, an updated course of instruction on domestic violence that is developed according to the standards and guidelines developed pursuant to subdivision (d). The instruction required pursuant to this subdivision shall be funded from existing resources available for the training required pursuant to this section. It is the intent of the Legislature not to increase the annual training costs of local government entities.

SEC. 2. Section 13730 of the Penal Code is amended to read:

13730. (a) Each law enforcement agency shall develop a system, by January 1, 1986, for recording all domestic violence-related calls for assistance made to the department including whether weapons are involved. All domestic violence-related calls for assistance shall be supported with a written incident report, as described in subdivision (c), identifying the domestic violence incident. Monthly, the total number of domestic violence calls received and the numbers of those cases involving weapons shall be compiled by each law enforcement agency and submitted to the Attorney General.

(b) The Attorney General shall report annually to the Governor, the Legislature, and the public the total number of domestic violence-related calls received by California law enforcement agencies, the number of cases involving weapons, and a breakdown of calls received by agency, city, and county.

(c) Each law enforcement agency shall develop an incident report form that includes a domestic violence identification code by January 1, 1986. In all incidents of domestic violence, a report shall be written and shall be identified on the face of the report as a domestic violence incident. A report shall include at least both of the following:

(1) A notation of whether the officer or officers who responded to the domestic violence call observed any signs that the alleged abuser was under the influence of alcohol or a controlled substance.

(2) A notation of whether the officer or officers who responded to the domestic violence call determined if any law enforcement agency had previously responded to a domestic violence call at the same address involving the same alleged abuser or victim.

SEC. 3. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local

agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

Assembly Bill No. 469

CHAPTER 483

An act to amend Section 13730 of the Penal Code, relating to domestic violence.

[Approved by Governor October 3, 2001. Filed with
Secretary of State October 4, 2001.]

LEGISLATIVE COUNSEL'S DIGEST

AB 469, Cohn. Domestic violence.

Existing law requires all law enforcement agencies to prepare a written incident report containing specified information about all domestic violence-related calls for assistance made to the department. Existing law also requires that the total number of domestic-violence calls received and the number of those cases involving weapons be compiled by the agency monthly and submitted to the Attorney General.

This bill would require a law enforcement officer who responds to the scene of a domestic violence-related incident to prepare a domestic violence incident report which includes a notation of whether he or she found it necessary, for the protection of the peace officer or other persons present, to inquire of the victim, the alleged abuser, or both, whether a firearm or other deadly weapon was present at the location, and whether the inquiry disclosed the presence of a firearm or other deadly weapon. This bill would also require officers to confiscate any firearm or deadly weapon discovered at the location of a domestic violence incident. Because this bill would require local law enforcement officers to perform additional duties, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

The people of the State of California do enact as follows:

SECTION 1. Section 13730 of the Penal Code is amended to read:

13730. (a) Each law enforcement agency shall develop a system, by January 1, 1986, for recording all domestic violence-related calls for assistance made to the department including whether weapons are involved. All domestic violence-related calls for assistance shall be supported with a written incident report, as described in subdivision (c), identifying the domestic violence incident. Monthly, the total number of domestic violence calls received and the numbers of those cases involving weapons shall be compiled by each law enforcement agency and submitted to the Attorney General.

(b) The Attorney General shall report annually to the Governor, the Legislature, and the public the total number of domestic violence-related calls received by California law enforcement agencies, the number of cases involving weapons, and a breakdown of calls received by agency, city, and county.

(c) Each law enforcement agency shall develop an incident report form that includes a domestic violence identification code by January 1, 1986. In all incidents of domestic violence, a report shall be written and shall be identified on the face of the report as a domestic violence incident. The report shall include at least all of the following:

(1) A notation of whether the officer or officers who responded to the domestic violence call observed any signs that the alleged abuser was under the influence of alcohol or a controlled substance.

(2) A notation of whether the officer or officers who responded to the domestic violence call determined if any law enforcement agency had previously responded to a domestic violence call at the same address involving the same alleged abuser or victim.

(3) A notation of whether the officer or officers who responded to the domestic violence call found it necessary, for the protection of the peace officer or other persons present, to inquire of the victim, the alleged abuser, or both, whether a firearm or other deadly weapon was present at the location, and, if there is an inquiry, whether that inquiry disclosed the presence of a firearm or other deadly weapon. Any firearm or other deadly weapon discovered by an officer at the scene of a domestic violence incident shall be subject to confiscation pursuant to Section 12028.5.

SEC. 2. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.



The cancer so developing or manifesting itself in these cases shall be presumed to arise out of and in the course of the employment. This presumption is disputable and may be controverted by other evidence, but unless so controverted, the appeals board is bound to find in accordance with it. This presumption shall be extended to a member following termination of service for a period of three calendar months for each full year of the requisite service, but not to exceed 60 months in any circumstance, commencing with the last date actually worked in the specified capacity.

SEC. 3. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 1172

An act to add Section 13023 to the Penal Code, relating to criminal records.

[Approved by Governor September 30, 1989. Filed with
Secretary of State September 30, 1989.]

The people of the State of California do enact as follows:

SECTION 1. Section 13023 is added to the Penal Code, to read:
13023. Commencing July 1, 1990, subject to the availability of adequate funding, the Attorney General shall direct local law enforcement agencies to report to the Department of Justice, in a manner to be prescribed by the Attorney General, such information as may be required relative to any criminal acts or attempted criminal acts to cause physical injury, emotional suffering, or property damage where there is a reasonable cause to believe that the crime was motivated, in whole or in part, by the victim's race, ethnicity, religion, sexual orientation, or physical or mental disability. On or before July 1, 1992, and every July 1 thereafter, the Department of Justice shall submit a report to the Legislature analyzing the results of the information obtained from local law enforcement agencies pursuant to this section.

SEC. 2. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act

contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 1173

An act to add Section 56111.1 to the Government Code, and to amend Section 99231 of the Public Utilities Code, relating to local government.

[Approved by Governor September 30, 1989. Filed with
Secretary of State September 30, 1989.]

The people of the State of California do enact as follows:

SECTION 1. Section 56111.1 is added to the Government Code, to read:

56111.1. (a) Notwithstanding Section 56110, upon approval of the commission, the City of Soledad may annex noncontiguous territory of not more than 1,000 acres in area, located in the County of Monterey and which constitutes a state correctional training facility. If, after the completion of the annexation, the State of California sells that territory or any part thereof, all of that territory which is no longer owned by the state shall cease to be a part of the City of Soledad.

(b) If territory is annexed pursuant to this section, the city may not annex any territory not owned by the State of California and not contiguous to the city although that territory is contiguous to the territory annexed pursuant to this section.

(c) When territory ceases to be part of the city pursuant to this section, the legislative body of the city shall adopt a resolution confirming the detachment of that territory from the city. The resolution shall describe the detached territory and shall be accompanied by a map indicating the territory. Immediately upon adoption of the resolution, the city clerk shall make any filing provided for by Chapter 8 (commencing with Section 57200) of Part 4 of Division 3.

(d) If territory annexed to the City of Soledad pursuant to this section becomes contiguous to the city, the limitations imposed by this section shall cease to apply.

(e) The City of Soledad may enter into an agreement with any

Assembly Bill No. 1999

CHAPTER 933

An act to amend Sections 186.21, 422.75, 11410, 13023, and 13519.6 of, and to add Section 422.76 to, the Penal Code, relating to gender.

[Approved by Governor September 28, 1998. Filed
with Secretary of State September 28, 1998.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1999, Kuehl. Hate crimes: gender.

(1) Existing law punishes as a misdemeanor, a person who uses force or threat of force to willfully injure, intimidate, interfere with, oppress, or threaten any person in the free exercise or enjoyment of a right or privilege because of that person's race, color, religion, ancestry, national origin, disability, gender, or sexual orientation. Similarly, existing law imposes an enhanced penalty on a person who, while acting in concert with another person, commits or attempts to commit a felony because of the victim's membership in one or more of the above specified groups. An enhanced penalty is also imposed on any person who commits or attempts to commit a felony against the property of a public agency or private institution because the property is identified or associated with a person who is a member of, or a group that is included within, one of the groups specified above. Additionally, existing law imposes enhanced penalties on a person who commits or attempts to commit a felony because of the victim's race, color, religion, nationality, country of origin, ancestry, disability, or sexual orientation, and on a person for each prior felony conviction committed because of the victim's membership in any of the groups just specified.

This bill would amend the last 2 provisions summarized above, and an intent section of an act relating to the prevention of street terrorism, by adding gender to the list of groups in which the victim's membership entitles the victim to protection under those statutes. This bill would also define "gender" for purposes of the provisions summarized in this digest and other specified provisions, to mean the victim's actual sex or the defendant's perception of the victim's sex, and includes the defendant's perception of the victim's identity or appearance, whether or not that identity or appearance is different from that traditionally associated with the victim's sex at birth. By expanding the definition of an enhancement, this bill would impose a state-mandated local program. The bill would state that this definition section does not constitute a change in, but is declaratory of, existing law.

(2) Existing law expresses the Legislature's intent that every person regardless of race, color, creed, religion, or national origin, has the right to be secure and protected from fear, intimidation, and physical harm caused by the activities of violent groups and individuals.

This bill would add a person's gender to the above list of characteristics that are protected by law.

(3) Existing law requires the Attorney General to direct local law enforcement agencies to report to the Department of Justice, information regarding physical injury, emotional suffering, or property damage where there is a reasonable cause to believe that the crime was motivated, in whole or in part, by the victim's race, ethnicity, religion, sexual orientation, or physical or mental disability.

This bill would add gender to the list of victim characteristics in the above reporting provision. By increasing the reporting duties of local officials, this bill would impose a state-mandated local program.

(4) This bill would incorporate additional changes in Section 422.75 of the Penal Code proposed by SB 2168, to be operative if SB 2168 and this bill are both enacted and become effective on or before January 1, 1999, and this bill is enacted last.

(5) This bill would incorporate a cross reference to Section 190.03 of the Penal Code that would be added by AB 2324, to be operative only if both this bill and AB 2324 are enacted and become operative on or before January 1, 1999, and AB 2324 adds Section 190.03 to the Penal Code.

(6) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

The people of the State of California do enact as follows:

SECTION 1. Section 186.21 of the Penal Code is amended to read:

186.21. The Legislature hereby finds and declares that it is the right of every person, regardless of race, color, creed, religion, national origin, gender, age, sexual orientation, or handicap, to be secure and protected from fear, intimidation, and physical harm caused by the activities of violent groups and individuals. It is not the

intent of this chapter to interfere with the exercise of the constitutionally protected rights of freedom of expression and association. The Legislature hereby recognizes the constitutional right of every citizen to harbor and express beliefs on any lawful subject whatsoever, to lawfully associate with others who share similar beliefs, to petition lawfully constituted authority for a redress of perceived grievances, and to participate in the electoral process.

The Legislature, however, further finds that the State of California is in a state of crisis which has been caused by violent street gangs whose members threaten, terrorize, and commit a multitude of crimes against the peaceful citizens of their neighborhoods. These activities, both individually and collectively, present a clear and present danger to public order and safety and are not constitutionally protected. The Legislature finds that there are nearly 600 criminal street gangs operating in California, and that the number of gang-related murders is increasing. The Legislature also finds that in Los Angeles County alone there were 328 gang-related murders in 1986, and that gang homicides in 1987 have increased 80 percent over 1986. It is the intent of the Legislature in enacting this chapter to seek the eradication of criminal activity by street gangs by focusing upon patterns of criminal gang activity and upon the organized nature of street gangs, which together, are the chief source of terror created by street gangs. The Legislature further finds that an effective means of punishing and deterring the criminal activities of street gangs is through forfeiture of the profits, proceeds, and instrumentalities acquired, accumulated, or used by street gangs.

SEC. 2. Section 422.75 of the Penal Code is amended to read:

422.75. (a) Except in the case of a person punished under Section 422.7, a person who commits a felony or attempts to commit a felony because of the victim's race, color, religion, nationality, country of origin, ancestry, disability, gender, or sexual orientation, or because he or she perceives that the victim has one or more of those characteristics, shall receive an additional term of one, two, or three years in the state prison, at the court's discretion.

(b) Except in the case of a person punished under Section 422.7 or subdivision (a) of this section, any person who commits a felony or attempts to commit a felony against the property of a public agency or private institution, including a school, educational facility, library or community center, meeting hall, place of worship, or offices of an advocacy group, or the grounds adjacent to, owned, or rented by the public agency or private institution, because the property of the public agency or private institution is identified or associated with a person or group of an identifiable race, color, religion, nationality, country of origin, ancestry, gender, disability, or sexual orientation, shall receive an additional term of one, two, or three years in the state prison, at the court's discretion.

(c) Except in the case of a person punished under Section 422.7 or subdivision (a) or (b) of this section, any person who commits a felony, or attempts to commit a felony, because of the victim's race, color, religion, nationality, country of origin, ancestry, gender, disability, or sexual orientation, or because he or she perceives that the victim has one or more of those characteristics, and who voluntarily acted in concert with another person, either personally or by aiding and abetting another person, shall receive an additional two, three, or four years in the state prison, at the court's discretion.

(d) For the purpose of imposing an additional term under subdivision (a) or (c), it shall be a factor in aggravation that the defendant personally used a firearm in the commission of the offense. Nothing in this subdivision shall preclude a court from also imposing a sentence enhancement pursuant to Section 12022.5 or 12022.55, or any other law.

(e) A person who is punished pursuant to this section also shall receive an additional term of one year in the state prison for each prior felony conviction on charges brought and tried separately in which it was found by the trier of fact or admitted by the defendant that the crime was committed because of the victim's race, color, religion, nationality, country of origin, ancestry, disability, gender, or sexual orientation, or that the crime was committed because the defendant perceived that the victim had one or more of those characteristics. This additional term shall only apply where a sentence enhancement is not imposed pursuant to Section 667 or 667.5.

(f) Any additional term authorized by this section shall not be imposed unless the allegation is charged in the accusatory pleading and admitted by the defendant or found to be true by the trier of fact.

(g) Any additional term imposed pursuant to this section shall be in addition to any other punishment provided by law.

(h) Notwithstanding any other law, the court may strike any additional term imposed by this section if the court determines that there are mitigating circumstances and states on the record the reasons for striking the additional punishment.

(i) (1) "Because of" means that the bias motivation must be a cause in fact of the offense, whether or not other causes also exist. When multiple concurrent motives exist, the prohibited bias must be a substantial factor in bringing about the particular result.

(2) This subdivision does not constitute a change in, but is declaratory of, existing law under *In Re M.S.* (1995) 10 Cal. 4th 698 and *People v. Superior Court (Aishman)* (1995) 10 Cal. 4th 735.

SEC. 2.5. Section 422.75 of the Penal Code is amended to read:

422.75. (a) Except in the case of a person punished under Section 422.7, a person who commits a felony or attempts to commit a felony because of the victim's race, color, religion, nationality, country of origin, ancestry, disability, gender, or sexual orientation, or because

he or she perceives that the victim has one or more of those characteristics, shall receive an additional term of one, two, or three years in the state prison, at the court's discretion.

(b) Except in the case of a person punished under Section 422.7 or subdivision (a) of this section, any person who commits a felony or attempts to commit a felony against the property of a public agency or private institution, including a school, educational facility, library or community center, meeting hall, place of worship, or offices of an advocacy group, or the grounds adjacent to, owned, or rented by the public agency or private institution, because the property of the public agency or private institution is identified or associated with a person or group of an identifiable race, color, religion, nationality, country of origin, ancestry, gender, disability, or sexual orientation, shall receive an additional term of one, two, or three years in the state prison, at the court's discretion.

(c) Except in the case of a person punished under Section 422.7 or subdivision (a) or (b) of this section, any person who commits a felony, or attempts to commit a felony, because of the victim's race, color, religion, nationality, country of origin, ancestry, gender, disability, or sexual orientation, or because he or she perceives that the victim has one or more of those characteristics, and who voluntarily acted in concert with another person, either personally or by aiding and abetting another person, shall receive an additional two, three, or four years in the state prison, at the court's discretion.

(d) For the purpose of imposing an additional term under subdivision (a) or (c), it shall be a factor in aggravation that the defendant personally used a firearm in the commission of the offense. Nothing in this subdivision shall preclude a court from also imposing a sentence enhancement pursuant to Section 12022.5, 12022.53, or 12022.55, or any other law.

(e) A person who is punished pursuant to this section also shall receive an additional term of one year in the state prison for each prior felony conviction on charges brought and tried separately in which it was found by the trier of fact or admitted by the defendant that the crime was committed because of the victim's race, color, religion, nationality, country of origin, ancestry, disability, gender, or sexual orientation, or that the crime was committed because the defendant perceived that the victim had one or more of those characteristics. This additional term shall only apply where a sentence enhancement is not imposed pursuant to Section 667 or 667.5.

(f) Any additional term authorized by this section shall not be imposed unless the allegation is charged in the accusatory pleading and admitted by the defendant or found to be true by the trier of fact.

(g) Any additional term imposed pursuant to this section shall be in addition to any other punishment provided by law.

(h) Notwithstanding any other provision of law, the court may strike any additional term imposed by this section if the court determines that there are mitigating circumstances and states on the record the reasons for striking the additional punishment.

(i) (1) "Because of" means that the bias motivation must be a cause in fact of the offense, whether or not other causes also exist. When multiple concurrent motives exist, the prohibited bias must be a substantial factor in bringing about the particular result.

(2) This subdivision does not constitute a change in, but is declaratory of, existing law under *In Re M.S.* (1995) 10 Cal. 4th 698 and *People v. Superior Court (Aishman)* (1995) 10 Cal. 4th 735.

SEC. 3. Section 422.76 is added to the Penal Code, to read:

422.76. For purposes of Section 186.21, subdivisions (a) and (b) of Section 422.6, Section 422.7, subdivisions (a), (b), (c), and (e) of Section 422.75, Sections 1170.75 and 11410, paragraph (9) of subdivision (b) of Section 11413, Section 13023, subdivision (c) of Section 13519.4, and subdivision (a) of Section 13519.6, "gender" means the victim's actual sex or the defendant's perception of the victim's sex, and includes the defendant's perception of the victim's identity, appearance, or behavior, whether or not that identity, appearance, or behavior is different from that traditionally associated with the victim's sex at birth.

SEC. 3.1. Section 422.76 is added to the Penal Code, to read:

422.76. For purposes of Sections 186.21, 190.03, subdivisions (a) and (b) of Section 422.6, Section 422.7, subdivisions (a), (b), (c), and (e) of Section 422.75, Sections 1170.75 and 11410, paragraph (9) of subdivision (b) of Section 11413, Section 13023, subdivision (c) of Section 13519.4, and subdivision (a) of Section 13519.6, "gender" means the victim's actual sex or the defendant's perception of the victim's sex, and includes the defendant's perception of the victim's identity, appearance, or behavior, whether or not that identity, appearance, or behavior is different from that traditionally associated with the victim's sex at birth.

SEC. 4. Section 11410 of the Penal Code is amended to read:

11410. The Legislature finds and declares that it is the right of every person regardless of race, color, creed, religion, gender, or national origin, to be secure and protected from fear, intimidation, and physical harm caused by the activities of violent groups and individuals. It is not the intent of this chapter to interfere with the exercise of rights protected by the Constitution of the United States. The Legislature recognizes the constitutional right of every citizen to harbor and express beliefs on any subject whatsoever and to associate with others who share similar beliefs. The Legislature further finds however, that the advocacy of unlawful violent acts by groups against other persons or groups under circumstances where death or great bodily injury is likely to result is not constitutionally

protected, poses a threat to public order and safety and should be subject to criminal and civil sanctions.

SEC. 5. Section 13023 of the Penal Code is amended to read:

13023. Commencing July 1, 1990, subject to the availability of adequate funding, the Attorney General shall direct local law enforcement agencies to report to the Department of Justice, in a manner to be prescribed by the Attorney General, any information that may be required relative to any criminal acts or attempted criminal acts to cause physical injury, emotional suffering, or property damage where there is a reasonable cause to believe that the crime was motivated, in whole or in part, by the victim's race, ethnicity, religion, gender, sexual orientation, or physical or mental disability. On or before July 1, 1992, and every July 1 thereafter, the Department of Justice shall submit a report to the Legislature analyzing the results of the information obtained from local law enforcement agencies pursuant to this section.

SEC. 6. Section 13519.6 of the Penal Code is amended to read:

13519.6. (a) The commission shall, on or before December 31, 1993, develop guidelines and a course of instruction and training for law enforcement officers who are employed as peace officers, or who are not yet employed as a peace officer but are enrolled in a training academy for law enforcement officers, addressing hate crimes. "Hate crimes," for purposes of this section, means any act of intimidation, harassment, physical force, or the threat of physical force directed against any person, or family, or their property or advocate, motivated either in whole or in part by the hostility to the real or perceived ethnic background, national origin, religious belief, gender, age, disability, or sexual orientation, with the intention of causing fear and intimidation.

(b) The course shall make maximum use of audio and video communication and other simulation methods and shall include instruction in each of the following procedures and techniques:

- (1) Indicators of hate crimes.
- (2) The impact of these crimes on the victim, the victim's family, and the community.
- (3) Knowledge of the laws dealing with hate crimes and the legal rights of, and the remedies available to, victims of hate crimes.
- (4) Law enforcement procedures, reporting, and documentation of hate crimes.
- (5) Techniques and methods to handle incidents of hate crimes in a noncombative manner.

(c) The guidelines developed by the commission shall incorporate the procedures and techniques specified in subdivision (b).

(d) The course of training leading to the basic certificate issued by the commission shall, not later than July 1, 1994, include the course of instruction described in subdivision (a).

(e) As used in this section, "peace officer" means any person designated as a peace officer by Section 830.1 or 830.2.

SEC. 7. Section 422.76 of the Penal Code as added by Section 3 of this act does not constitute a change in, but is declaratory of, existing law.

SEC. 8. Section 2.5 of this bill incorporates amendments to Section 422.75 of the Penal Code proposed by both this bill and SB 2168. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1999, (2) each bill amends Section 422.75 of the Penal Code, and (3) this bill is enacted after SB 2168, in which case Section 422.75 of the Penal Code as amended by SB 2168, shall remain operative only until the operative date of this bill, at which time Section 2.5 of this bill shall become operative, and Section 2 of this bill shall not become operative.

SEC. 9. Section 3.1 of this bill shall become operative only if (1) both this bill and AB 2324 are enacted and become effective on or before January 1, 1999, and (2) AB 2324 adds Section 190.03 to the Penal Code, in which case Section 3 of this bill shall not become operative.

SEC. 10. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because in that regard this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

However, notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

Assembly Bill No. 715

CHAPTER 626

An act to amend Sections 12512, 12520, and 12544 of the Government Code, and to amend Section 13023 of the Penal Code, relating to the Attorney General.

[Approved by Governor September 24, 2000. Filed
with Secretary of State September 26, 2000.]

LEGISLATIVE COUNSEL'S DIGEST

AB 715, Firebaugh. Attorney General duties: criminal information reporting.

(1) Existing law requires the Attorney General to prosecute and defend all causes to which the state or state officers in their official capacities are parties, as well as all causes to which any county is a party, unless the interest of the county is adverse to the state or state officers in their official capacities.

This bill would repeal the above-described provisions regarding the prosecution and defense of causes to which any county is a party.

(2) Existing law prohibits the Attorney General from employing special counsel, except when those cases concern escheated property and the supervision of district attorneys.

This bill would provide that this prohibition does not affect the right of the Attorney General to employ counsel to represent or assist in the representation of a state agency, as defined, or a state employee if the representation meets specified standards.

(3) Existing law provides that, if an escheat proceeding is prosecuted by the regular staff of the Attorney General's office, the Attorney General shall recover the costs and charges of commencing and filing a suit to recover escheated property from the escheated funds, by presenting a claim.

This bill would repeal the requirement that the action be prosecuted by the regular staff of the Attorney General's office, and make other technical changes.

(4) Existing law requires the Attorney General to direct local law enforcement agencies to report to the Department of Justice, information that may be required relative to criminal acts or attempted criminal acts to cause physical injury, emotional suffering, or property damage where there is reasonable cause to believe that the crime was motivated, in whole or in part, by the victim's race, ethnicity, religion, gender, sexual orientation, or physical or mental disability.

This bill would add national origin to the list of victim characteristics in this reporting requirement. By increasing the

reporting duties of local officials, this bill would impose a state-mandated local program.

(5) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

The people of the State of California do enact as follows:

SECTION 1. Section 12512 of the Government Code is amended to read:

12512. The Attorney General shall attend the Supreme Court and prosecute or defend all causes to which the State, or any State officer is a party in his or her official capacity.

SEC. 2. Section 12520 of the Government Code is amended to read:

12520. (a) The Attorney General may not employ special counsel in any case except pursuant to either of the following:

(1) Article 3 (commencing with Section 12540).

(2) Article 4 (commencing with Section 12550).

(b) Subdivision (a) does not affect the right of the Attorney General to employ counsel to represent, or to assist in the representation of, a state agency as defined in Section 11000, including the Attorney General or the Department of Justice, or to represent a state employee if that representation meets any of the standards set forth in paragraph (3), (5), (7), (8), (9), or (10) of subdivision (b) of Section 19130.

SEC. 3. Section 12544 of the Government Code is amended to read:

12544. If an escheat proceeding is prosecuted by the staff of the Attorney General's office, the Attorney General shall recover, by presenting a claim to the Controller, all costs and charges of commencing and prosecuting the suit, from the funds so escheated. Those claims shall be paid from the Abandoned Property Account in the Unclaimed Property Fund and credited to and in augmentation of any support appropriation of the Attorney General. The costs and charges may not in any case exceed 10 per cent of the sum or sums actually escheated to the State in those suits.

SEC. 4. Section 13023 of the Penal Code is amended to read:

13023. Commencing July 1, 1990, subject to the availability of adequate funding, the Attorney General shall direct local law enforcement agencies to report to the Department of Justice, in a manner to be prescribed by the Attorney General, any information that may be required relative to any criminal acts or attempted criminal acts to cause physical injury, emotional suffering, or property damage where there is a reasonable cause to believe that the crime was motivated, in whole or in part, by the victim's race, ethnicity, religion, gender, sexual orientation, national origin, or physical or mental disability. On or before July 1, 1992, and every July 1 thereafter, the Department of Justice shall submit a report to the Legislature analyzing the results of the information obtained from local law enforcement agencies pursuant to this section.

SEC. 5. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

Assembly Bill No. 491

CHAPTER 571

An act to amend Sections 11106, 12025, and 12031 of the Penal Code, relating to firearms.

[Approved by Governor September 28, 1999. Filed
with Secretary of State September 29, 1999.]

LEGISLATIVE COUNSEL'S DIGEST

AB 491, Scott. Firearms.

(1) Existing law requires the Attorney General to maintain a registry of specified information concerning pistols, revolvers, and other firearms capable of being concealed on the person and to include in the registry specified data provided to the Department of Justice on the Dealers' Record of Sale.

This bill would require the Attorney General, at the written request of any person listed in the registry as the owner of a firearm through a Dealers' Record of Sale prior to 1979, to store and keep that record electronically and to provide the person written notice of its compliance with the request.

This bill would also incorporate additional changes in Section 11106 of the Penal Code proposed by SB 29, to be operative only if that bill and this bill are enacted and become effective on or before January 1, 2000, and this bill is enacted last.

(2) Existing law generally provides that it is a misdemeanor for any person to carry a concealed firearm. Under specified circumstances, carrying a concealed firearm is punishable as a felony. One of these circumstances includes a person who is not in lawful possession of the firearm. "Lawful possession" is defined to mean a person who owns the firearm or has permission of the owner or a person with apparent authority.

This bill would punish as a misdemeanor or a felony, carrying a concealed firearm if both the pistol, revolver, or other firearm capable of being concealed upon the person and the unexpended ammunition capable of being discharged from that firearm are in the immediate possession of the person or are readily accessible, or the firearm is loaded, as defined by law, where the person in possession is not the registered owner of the firearm, as specified. This bill would allow a peace officer to arrest a person for violating this provision if the officer had probable cause to believe the person was not the registered owner of the firearm and the other elements of this offense exist. The bill would also redefine the term "lawful possession" to mean one who lawfully owns or has permission of the lawful owner. In addition, the bill would require the district attorney of each county

to submit an annual report to the Attorney General consisting of profiles of persons charged with felonies or misdemeanors under this concealable firearm provision. Under the bill, the Attorney General would be required to submit an annual report to the Legislature compiling all of the reports submitted by the district attorneys. By increasing the punishment for a crime and increasing the duties of local officials, this bill would impose a state-mandated local program.

(3) Existing law provides that every person who carries a loaded firearm on his or her person or in a vehicle while in any public place or on any public street, as specified, is guilty of a misdemeanor except in specified circumstances where this offense is punishable as a felony.

This bill would punish as a misdemeanor or a felony, possession of a loaded pistol, revolver, or other firearm capable of being concealed upon the person where the person in possession is not the registered owner of the firearm, as specified. The bill would allow a peace officer to arrest a person for violating this provision if the officer had probable cause to believe the person was not the registered owner of the firearms and the other elements of this offense exist. The bill would also incorporate in this provision the changes described in (2) above regarding the definition of "lawful possession" and the requirement imposed upon the district attorney.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

The people of the State of California do enact as follows:

SECTION 1. Section 11106 of the Penal Code is amended to read:

11106. (a) In order to assist in the investigation of crime, the arrest and prosecution of criminals, and the recovery of lost, stolen, or found property, the Attorney General shall keep and properly file a complete record of all copies of fingerprints, copies of applications for licenses to carry firearms issued pursuant to Section 12050, information reported to the Department of Justice pursuant to Section 12053, dealers' records of sales of firearms, reports provided pursuant to Section 12072 or 12078, forms provided pursuant to

Section 12084, reports provided pursuant to Section 12071 that are not dealers' records of sales of firearms, and reports of stolen, lost, found, pledged, or pawned property in any city or county of this state, and shall, upon proper application therefor, furnish to the officers mentioned in Section 11105, hard copy printouts of those records as photographic, photostatic, and nonerasable optically stored reproductions.

(b) (1) Notwithstanding subdivision (a), the Attorney General shall not retain or compile any information from reports filed pursuant to subdivision (a) of Section 12078 for firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person, from forms submitted pursuant to Section 12084 for firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person, or from dealers' records of sales for firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person. All copies of the forms submitted, or any information received in electronic form, pursuant to Section 12084 for firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person, or of the dealers' records of sales for firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person shall be destroyed within five days of the clearance by the Attorney General, unless the purchaser or transferor is ineligible to take possession of the firearm. All copies of the reports filed, or any information received in electronic form, pursuant to subdivision (a) of Section 12078 for firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person shall be destroyed within five days of the receipt by the Attorney General, unless retention is necessary for use in a criminal prosecution.

(2) A peace officer, the Attorney General, a Department of Justice employee designated by the Attorney General, or any authorized local law enforcement employee shall not retain or compile any information from a firearms transaction record, as defined in paragraph (5) of subdivision (c) of Section 12071, for firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person unless retention or compilation is necessary for use in a criminal prosecution or in a proceeding to revoke a license issued pursuant to Section 12071.

(3) A violation of this subdivision is a misdemeanor.

(c) (1) The Attorney General shall permanently keep and properly file and maintain all information reported to the Department of Justice pursuant to Sections 12071, 12072, 12078, 12082, and 12084 or any other law, as to pistols, revolvers, or other firearms capable of being concealed upon the person and maintain a registry thereof.

(2) The registry shall consist of all of the following:

(A) The name, address, identification of, place of birth (state or country), complete telephone number, occupation, sex, description, and all legal names and aliases ever used by the owner or person being loaned the particular pistol, revolver, or other firearm capable of being concealed upon the person as listed on the information provided to the department on the Dealers' Record of Sale, the Law Enforcement Firearms Transfer (LEFT), as defined in Section 12084, or reports made to the department pursuant to Section 12078 or any other law.

(B) The name and address of, and other information about, any person (whether a dealer or a private party) from whom the owner acquired or the person being loaned the particular pistol, revolver, or other firearm capable of being concealed upon the person and when the firearm was acquired or loaned as listed on the information provided to the department on the Dealers' Record of Sale, the LEFT, or reports made to the department pursuant to Section 12078 or any other law.

(C) Any waiting period exemption applicable to the transaction which resulted in the owner of or the person being loaned the particular pistol, revolver, or other firearm capable of being concealed upon the person acquiring or being loaned that firearm.

(D) The manufacturer's name if stamped on the firearm; model name or number if stamped on the firearm; and, if applicable, the serial number, other number (if more than one serial number is stamped on the firearm), caliber, type of firearm, if the firearm is new or used, barrel length, and color of the firearm.

(3) Information in the registry referred to in this subdivision shall, upon proper application therefor, be furnished to the officers referred to in Section 11105 or to the person listed in the registry as the owner or person who is listed as being loaned the particular pistol, revolver, or other firearm capable of being concealed upon the person in the form of hard copy printouts of that information as photographic, photostatic, and nonerasable optically stored reproductions.

(4) If any person is listed in the registry as the owner of a firearm through a Dealers' Record of Sale prior to 1979, and the person listed in the registry requests by letter that the Attorney General store and keep the record electronically, as well as in the record's existing photographic, photostatic, or nonerasable optically stored form, the Attorney General shall do so within three working days of receipt of the request. The Attorney General shall, in writing, and as soon as practicable, notify the person requesting electronic storage of the record that the request has been honored as required by this paragraph.

SEC. 1.5. Section 11106 of the Penal Code is amended to read:

11106. (a) In order to assist in the investigation of crime, the arrest and prosecution of criminals, and the recovery of lost, stolen,

or found property, the Attorney General shall keep and properly file a complete record of all copies of fingerprints, copies of applications for licenses to carry firearms issued pursuant to Section 12050, information reported to the Department of Justice pursuant to Section 12053, dealers' records of sales of firearms, reports provided pursuant to Section 12072 or 12078, forms provided pursuant to Section 12084, reports provided pursuant to Section 12071 that are not dealers' records of sales of firearms, and reports of stolen, lost, found, pledged, or pawned property in any city or county of this state, and shall, upon proper application therefor, furnish to the officers mentioned in Section 11105, hard copy printouts of those records as photographic, photostatic, and nonerasable optically stored reproductions.

(b) (1) Notwithstanding subdivision (a), the Attorney General shall not retain or compile any information from reports filed pursuant to subdivision (a) of Section 12078 for firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person, from forms submitted pursuant to Section 12084 for firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person, or from dealers' records of sales for firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person. All copies of the forms submitted, or any information received in electronic form, pursuant to Section 12084 for firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person, or of the dealers' records of sales for firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person shall be destroyed within five days of the clearance by the Attorney General, unless the purchaser or transferor is ineligible to take possession of the firearm. All copies of the reports filed, or any information received in electronic form, pursuant to subdivision (a) of Section 12078 for firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person shall be destroyed within five days of the receipt by the Attorney General, unless retention is necessary for use in a criminal prosecution.

(2) A peace officer, the Attorney General, a Department of Justice employee designated by the Attorney General, or any authorized local law enforcement employee shall not retain or compile any information from a firearms transaction record, as defined in paragraph (5) of subdivision (c) of Section 12071, for firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person unless retention or compilation is necessary for use in a criminal prosecution or in a proceeding to revoke a license issued pursuant to Section 12071.

(3) A violation of this subdivision is a misdemeanor.

(c) (1) The Attorney General shall permanently keep and properly file and maintain all information reported to the

Department of Justice pursuant to Sections 12071, 12072, 12078, 12082, and 12084 or any other law, as to pistols, revolvers, or other firearms capable of being concealed upon the person and maintain a registry thereof.

(2) The registry shall consist of all of the following:

(A) The name, address, identification of, place of birth (state or country), complete telephone number, occupation, sex, description, and all legal names and aliases ever used by the owner or person being loaned the particular pistol, revolver, or other firearm capable of being concealed upon the person as listed on the information provided to the department on the Dealers' Record of Sale, the Law Enforcement Firearms Transfer (LEFT), as defined in Section 12084, or reports made to the department pursuant to Section 12078 or any other law.

(B) The name and address of, and other information about, any person (whether a dealer or a private party) from whom the owner acquired or the person being loaned the particular pistol, revolver, or other firearm capable of being concealed upon the person and when the firearm was acquired or loaned as listed on the information provided to the department on the Dealers' Record of Sale, the LEFT, or reports made to the department pursuant to Section 12078 or any other law.

(C) Any waiting period exemption applicable to the transaction which resulted in the owner of or the person being loaned the particular pistol, revolver, or other firearm capable of being concealed upon the person acquiring or being loaned that firearm.

(D) The manufacturer's name if stamped on the firearm; model name or number if stamped on the firearm; and, if applicable, the serial number, other number (if more than one serial number is stamped on the firearm), caliber, type of firearm, if the firearm is new or used, barrel length, and color of the firearm.

(E) Information provided pursuant to paragraphs (19) and (20) of subdivision (b) of Section 12071.

(F) Information provided pursuant to paragraph (8) of subdivision (d) of Section 12084.

(3) Information in the registry referred to in this subdivision shall, upon proper application therefor, be furnished to the officers referred to in Section 11105 or to the person listed in the registry as the owner or person who is listed as being loaned the particular pistol, revolver, or other firearm capable of being concealed upon the person in the form of hard copy printouts of that information as photographic, photostatic, and nonerasable optically stored reproductions.

(4) If any person is listed in the registry as the owner of a firearm through a Dealers' Record of Sale prior to 1979, and the person listed in the registry requests by letter that the Attorney General store and keep the record electronically, as well as in the record's existing

photographic, photostatic, or nonerasable optically stored form, the Attorney General shall do so within three working days of receipt of the request. The Attorney General shall, in writing, and as soon as practicable, notify the person requesting electronic storage of the record that the request has been honored as required by this paragraph.

SEC. 2. Section 12025 of the Penal Code is amended to read:

12025. (a) A person is guilty of carrying a concealed firearm when he or she does any of the following:

(1) Carries concealed within any vehicle which is under his or her control or direction any pistol, revolver, or other firearm capable of being concealed upon the person.

(2) Carries concealed upon his or her person any pistol, revolver, or other firearm capable of being concealed upon the person.

(3) Causes to be carried concealed within any vehicle in which he or she is an occupant any pistol, revolver, or other firearm capable of being concealed upon the person.

(b) Carrying a concealed firearm in violation of this section is punishable, as follows:

(1) Where the person previously has been convicted of any felony, or of any crime made punishable by this chapter, as a felony.

(2) Where the firearm is stolen and the person knew or had reasonable cause to believe that it was stolen, as a felony.

(3) Where the person is an active participant in a criminal street gang, as defined in subdivision (a) of Section 186.22, under the Street Terrorism Enforcement and Prevention Act (Chapter 11 (commencing with Section 186.20) of Title 7 of Part 1), as a felony.

(4) Where the person is not in lawful possession of the firearm, as defined in this section, or the person is within a class of persons prohibited from possessing or acquiring a firearm pursuant to Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code, as a felony.

(5) Where the person has been convicted of a crime against a person or property, or of a narcotics or dangerous drug violation, by imprisonment in the state prison, or by imprisonment in a county jail not to exceed one year, by a fine not to exceed one thousand dollars (\$1,000), or by both that imprisonment and fine.

(6) By imprisonment in the state prison, or by imprisonment in a county jail not to exceed one year, by a fine not to exceed one thousand dollars (\$1,000), or by both that fine and imprisonment if both of the following conditions are met:

(A) Both the pistol, revolver, or other firearm capable of being concealed upon the person and the unexpended ammunition capable of being discharged from that firearm are either in the immediate possession of the person or readily accessible to that person, or the pistol, revolver, or other firearm capable of being

concealed upon the person is loaded as defined in subdivision (g) of Section 12031.

(B) The person is not listed with the Department of Justice pursuant to paragraph (1) of subdivision (c) of Section 11106, as the registered owner of that pistol, revolver, or other firearm capable of being concealed upon the person.

(7) In all cases other than those specified in paragraphs (1) to (6), inclusive, by imprisonment in a county jail not to exceed one year, by a fine not to exceed one thousand dollars (\$1,000), or by both that imprisonment and fine.

(c) A peace officer may arrest a person for a violation of paragraph (6) of subdivision (b) if the peace officer has probable cause to believe that the person is not listed with the Department of Justice pursuant to paragraph (1) of subdivision (c) of Section 11106 as the registered owner of the pistol, revolver, or other firearm capable of being concealed upon the person, and one or more of the conditions in subparagraph (A) of paragraph (6) of subdivision (b) is met.

(d) (1) Every person convicted under this section who previously has been convicted of a misdemeanor offense enumerated in Section 12001.6 shall be punished by imprisonment in a county jail for at least three months and not exceeding six months, or, if granted probation, or if the execution or imposition of sentence is suspended, it shall be a condition thereof that he or she be imprisoned in a county jail for at least three months.

(2) Every person convicted under this section who has previously been convicted of any felony, or of any crime made punishable by this chapter, if probation is granted, or if the execution or imposition of sentence is suspended, it shall be a condition thereof that he or she be imprisoned in a county jail for not less than three months.

(e) The court shall apply the three-month minimum sentence as specified in subdivision (d), except in unusual cases where the interests of justice would best be served by granting probation or suspending the imposition or execution of sentence without the minimum imprisonment required in subdivision (d) or by granting probation or suspending the imposition or execution of sentence with conditions other than those set forth in subdivision (d), in which case, the court shall specify on the record and shall enter on the minutes the circumstances indicating that the interests of justice would best be served by that disposition.

(f) Firearms carried openly in belt holsters are not concealed within the meaning of this section.

(g) For purposes of this section, "lawful possession of the firearm" means that the person who has possession or custody of the firearm either lawfully owns the firearm or has the permission of the lawful owner or a person who otherwise has apparent authority to possess or have custody of the firearm. A person who takes a firearm without the permission of the lawful owner or without the permission of a

person who has lawful custody of the firearm does not have lawful possession of the firearm.

(h) (1) The district attorney of each county shall submit annually a report on or before June 30, to the Attorney General consisting of profiles by race, age, gender, and ethnicity of any person charged with a felony or a misdemeanor under this section and any other offense charged in the same complaint, indictment, or information.

(2) The Attorney General shall submit annually, a report on or before December 31, to the Legislature compiling all of the reports submitted pursuant to paragraph (1).

(3) This subdivision shall remain operative until January 1, 2005, and as of that date shall be repealed.

SEC. 3. Section 12031 of the Penal Code is amended to read:

12031. (a) (1) A person is guilty of carrying a loaded firearm when he or she carries a loaded firearm on his or her person or in a vehicle while in any public place or on any public street in an incorporated city or in any public place or on any public street in a prohibited area of unincorporated territory.

(2) Carrying a loaded firearm in violation of this section is punishable, as follows:

(A) Where the person previously has been convicted of any felony, or of any crime made punishable by this chapter, as a felony.

(B) Where the firearm is stolen and the person knew or had reasonable cause to believe that it was stolen, as a felony.

(C) Where the person is an active participant in a criminal street gang, as defined in subdivision (a) of Section 186.22, under the Street Terrorism Enforcement and Prevention Act (Chapter 11 (commencing with Section 186.20) of Title 7 of Part 1), as a felony.

(D) Where the person is not in lawful possession of the firearm, as defined in this section, or is within a class of persons prohibited from possessing or acquiring a firearm pursuant to Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code, as a felony.

(E) Where the person has been convicted of a crime against a person or property, or of a narcotics or dangerous drug violation, by imprisonment in the state prison, or by imprisonment in a county jail not to exceed one year, by a fine not to exceed one thousand dollars (\$1,000), or by both that imprisonment and fine.

(F) Where the person is not listed with the Department of Justice pursuant to Section 11106, as the registered owner of the pistol, revolver, or other firearm capable of being concealed upon the person, by imprisonment in the state prison, or by imprisonment in a county jail not to exceed one year, or by a fine not to exceed one thousand dollars (\$1,000), or both that fine and imprisonment.

(G) In all cases other than those specified in subparagraphs (A) to (F), inclusive, as a misdemeanor, punishable by imprisonment in

a county jail not to exceed one year, by a fine not to exceed one thousand dollars (\$1,000), or by both that imprisonment and fine.

(3) For purposes of this section, "lawful possession of the firearm" means that the person who has possession or custody of the firearm either lawfully acquired and lawfully owns the firearm or has the permission of the lawful owner or person who otherwise has apparent authority to possess or have custody of the firearm. A person who takes a firearm without the permission of the lawful owner or without the permission of a person who has lawful custody of the firearm does not have lawful possession of the firearm.

(4) Nothing in this section shall preclude prosecution under Sections 12021 and 12021.1 of this code, Section 8100 or 8103 of the Welfare and Institutions Code, or any other law with a greater penalty than this section.

(5) (A) Notwithstanding paragraphs (2) and (3) of subdivision (a) of Section 836, a peace officer may make an arrest without a warrant:

(i) When the person arrested has violated this section, although not in the officer's presence.

(ii) Whenever the officer has reasonable cause to believe that the person to be arrested has violated this section, whether or not this section has, in fact, been violated.

(B) A peace officer may arrest a person for a violation of subparagraph (F) of paragraph (2), if the peace officer has probable cause to believe that the person is carrying a loaded pistol, revolver, or other firearm capable of being concealed upon the person in violation of this section and that person is not listed with the Department of Justice pursuant to paragraph (1) of subdivision (c) of Section 11106 as the registered owner of that pistol, revolver, or other firearm capable of being concealed upon the person.

(6) (A) Every person convicted under this section who has previously been convicted of an offense enumerated in Section 12001.6, or of any crime made punishable under this chapter, shall serve a term of at least three months in a county jail, or, if granted probation or if the execution or imposition of sentence is suspended, it shall be a condition thereof that he or she be imprisoned for a period of at least three months.

(B) The court shall apply the three-month minimum sentence except in unusual cases where the interests of justice would best be served by granting probation or suspending the imposition or execution of sentence without the minimum imprisonment required in this subdivision or by granting probation or suspending the imposition or execution of sentence with conditions other than those set forth in this subdivision, in which case, the court shall specify on the record and shall enter on the minutes the circumstances indicating that the interests of justice would best be served by that disposition.

(7) A violation of this section which is punished by imprisonment in a county jail not exceeding one year shall not constitute a conviction of a crime punishable by imprisonment for a term exceeding one year for the purposes of determining federal firearms eligibility under Section 922(g)(1) of Title 18 of the United States Code.

(b) Subdivision (a) shall not apply to any of the following:

(1) Peace officers listed in Section 830.1 or 830.2, or subdivision (a) of Section 830.33, whether active or honorably retired, other duly appointed peace officers, honorably retired peace officers listed in subdivision (c) of Section 830.5, other honorably retired peace officers who during the course and scope of their employment as peace officers were authorized to, and did, carry firearms, full-time paid peace officers of other states and the federal government who are carrying out official duties while in California, or any person summoned by any of those officers to assist in making arrests or preserving the peace while the person is actually engaged in assisting that officer. Any peace officer described in this paragraph who has been honorably retired shall be issued an identification certificate by the law enforcement agency from which the officer has retired. The issuing agency may charge a fee necessary to cover any reasonable expenses incurred by the agency in issuing certificates pursuant to this paragraph and paragraph (3).

Any officer, except an officer listed in Section 830.1 or 830.2, subdivision (a) of Section 830.33, or subdivision (c) of Section 830.5 who retired prior to January 1, 1981, shall have an endorsement on the identification certificate stating that the issuing agency approves the officer's carrying of a loaded firearm.

No endorsement or renewal endorsement issued pursuant to paragraph (2) shall be effective unless it is in the format set forth in subparagraph (D) of paragraph (1) of subdivision (a) of Section 12027, except that any peace officer listed in subdivision (f) of Section 830.2 or in subdivision (c) of Section 830.5, who is retired between January 2, 1981, and on or before December 31, 1988, and who is authorized to carry a loaded firearm pursuant to this section, shall not be required to have an endorsement in the format set forth in subparagraph (D) of paragraph (1) of subdivision (a) of Section 12027 until the time of the issuance, on or after January 1, 1989, of a renewal endorsement pursuant to paragraph (2).

(2) A retired peace officer, except an officer listed in Section 830.1 or 830.2, subdivision (a) of Section 830.33, or subdivision (c) of Section 830.5 who retired prior to January 1, 1981, shall petition the issuing agency for renewal of his or her privilege to carry a loaded firearm every five years. An honorably retired peace officer listed in Section 830.1 or 830.2, subdivision (a) of Section 830.33, or subdivision (c) of Section 830.5 who retired prior to January 1, 1981, shall not be required to obtain an endorsement from the issuing agency to carry

a loaded firearm. The agency from which a peace officer is honorably retired may, upon initial retirement of the peace officer, or at any time subsequent thereto, deny or revoke for good cause the retired officer's privilege to carry a loaded firearm. A peace officer who is listed in Section 830.1 or 830.2, subdivision (a) of Section 830.33, or subdivision (c) of Section 830.5 who is retired prior to January 1, 1981, shall have his or her privilege to carry a loaded firearm denied or revoked by having the agency from which the officer retired stamp on the officer's identification certificate "No CCW privilege."

(3) An honorably retired peace officer who is listed in subdivision (c) of Section 830.5 and authorized to carry loaded firearms by this subdivision shall meet the training requirements of Section 832 and shall qualify with the firearm at least annually. The individual retired peace officer shall be responsible for maintaining his or her eligibility to carry a loaded firearm. The Department of Justice shall provide subsequent arrest notification pursuant to Section 11105.2 regarding honorably retired peace officers listed in subdivision (c) of Section 830.5 to the agency from which the officer has retired.

(4) Members of the military forces of this state or of the United States engaged in the performance of their duties.

(5) Persons who are using target ranges for the purpose of practice shooting with a firearm or who are members of shooting clubs while hunting on the premises of those clubs.

(6) The carrying of pistols, revolvers, or other firearms capable of being concealed upon the person by persons who are authorized to carry those weapons pursuant to Article 3 (commencing with Section 12050) of Chapter 1 of Title 2 of Part 4.

(7) Armored vehicle guards, as defined in Section 7521 of the Business and Professions Code, (A) if hired prior to January 1, 1977, or (B) if hired on or after that date, if they have received a firearms qualification card from the Department of Consumer Affairs, in each case while acting within the course and scope of their employment.

(8) Upon approval of the sheriff of the county in which they reside, honorably retired federal officers or agents of federal law enforcement agencies, including, but not limited to, the Federal Bureau of Investigation, the Secret Service, the United States Customs Service, the Federal Bureau of Alcohol, Tobacco, and Firearms, the Federal Bureau of Narcotics, the Drug Enforcement Administration, the United States Border Patrol, and officers or agents of the Internal Revenue Service who were authorized to carry weapons while on duty, who were assigned to duty within the state for a period of not less than one year, or who retired from active service in the state.

Retired federal officers or agents shall provide the sheriff with certification from the agency from which they retired certifying their service in the state, the nature of their retirement, and indicating the

agency's concurrence that the retired federal officer or agent should be accorded the privilege of carrying a loaded firearm.

Upon approval, the sheriff shall issue a permit to the retired federal officer or agent indicating that he or she may carry a loaded firearm in accordance with this paragraph. The permit shall be valid for a period not exceeding five years, shall be carried by the retiree while carrying a loaded firearm, and may be revoked for good cause.

The sheriff of the county in which the retired federal officer or agent resides may require recertification prior to a permit renewal, and may suspend the privilege for cause. The sheriff may charge a fee necessary to cover any reasonable expenses incurred by the county.

(c) Subdivision (a) shall not apply to any of the following who have completed a regular course in firearms training approved by the Commission on Peace Officer Standards and Training:

(1) Patrol special police officers appointed by the police commission of any city, county, or city and county under the express terms of its charter who also, under the express terms of the charter, (A) are subject to suspension or dismissal after a hearing on charges duly filed with the commission after a fair and impartial trial, (B) are not less than 18 years of age or more than 40 years of age, (C) possess physical qualifications prescribed by the commission, and (D) are designated by the police commission as the owners of a certain beat or territory as may be fixed from time to time by the police commission.

(2) The carrying of weapons by animal control officers or zookeepers, regularly compensated as such by a governmental agency when acting in the course and scope of their employment and when designated by a local ordinance or, if the governmental agency is not authorized to act by ordinance, by a resolution, either individually or by class, to carry the weapons, or by persons who are authorized to carry the weapons pursuant to Section 14502 of the Corporations Code, while actually engaged in the performance of their duties pursuant to that section.

(3) Harbor police officers designated pursuant to Section 663.5 of the Harbors and Navigation Code.

(d) Subdivision (a) shall not apply to any of the following who have been issued a certificate pursuant to Section 12033. The certificate shall not be required of any person who is a peace officer, who has completed all training required by law for the exercise of his or her power as a peace officer, and who is employed while not on duty as a peace officer.

(1) Guards or messengers of common carriers, banks, and other financial institutions while actually employed in and about the shipment, transportation, or delivery of any money, treasure, bullion, bonds, or other thing of value within this state.

(2) Guards of contract carriers operating armored vehicles pursuant to California Highway Patrol and Public Utilities

Commission authority (A) if hired prior to January 1, 1977, or (B) if hired on or after January 1, 1977, if they have completed a course in the carrying and use of firearms which meets the standards prescribed by the Department of Consumer Affairs.

(3) Private investigators and private patrol operators who are licensed pursuant to Chapter 11.5 (commencing with Section 7512) of, and alarm company operators who are licensed pursuant to Chapter 11.6 (commencing with Section 7590) of, Division 3 of the Business and Professions Code, while acting within the course and scope of their employment.

(4) Uniformed security guards or night watch persons employed by any public agency, while acting within the scope and course of their employment.

(5) Uniformed security guards, regularly employed and compensated in that capacity by persons engaged in any lawful business, and uniformed alarm agents employed by an alarm company operator, while actually engaged in protecting and preserving the property of their employers or on duty or en route to or from their residences or their places of employment, and security guards and alarm agents en route to or from their residences or employer-required range training. Nothing in this paragraph shall be construed to prohibit cities and counties from enacting ordinances requiring alarm agents to register their names.

(6) Uniformed employees of private patrol operators and private investigators licensed pursuant to Chapter 11.5 (commencing with Section 7512) of Division 3 of the Business and Professions Code, while acting within the course and scope of their employment.

(e) In order to determine whether or not a firearm is loaded for the purpose of enforcing this section, peace officers are authorized to examine any firearm carried by anyone on his or her person or in a vehicle while in any public place or on any public street in an incorporated city or prohibited area of an unincorporated territory. Refusal to allow a peace officer to inspect a firearm pursuant to this section constitutes probable cause for arrest for violation of this section.

(f) As used in this section, "prohibited area" means any place where it is unlawful to discharge a weapon.

(g) A firearm shall be deemed to be loaded for the purposes of this section when there is an unexpended cartridge or shell, consisting of a case that holds a charge of powder and a bullet or shot, in, or attached in any manner to, the firearm, including, but not limited to, in the firing chamber, magazine, or clip thereof attached to the firearm; except that a muzzle-loader firearm shall be deemed to be loaded when it is capped or primed and has a powder charge and ball or shot in the barrel or cylinder.

(h) Nothing in this section shall prevent any person engaged in any lawful business, including a nonprofit organization, or any

officer, employee, or agent authorized by that person for lawful purposes connected with that business, from having a loaded firearm within the person's place of business, or any person in lawful possession of private property from having a loaded firearm on that property.

(i) Nothing in this section shall prevent any person from carrying a loaded firearm in an area within an incorporated city while engaged in hunting, provided that the hunting at that place and time is not prohibited by the city council.

(j) (1) Nothing in this section is intended to preclude the carrying of any loaded firearm, under circumstances where it would otherwise be lawful, by a person who reasonably believes that the person or property of himself or herself or of another is in immediate, grave danger and that the carrying of the weapon is necessary for the preservation of that person or property. As used in this subdivision, "immediate" means the brief interval before and after the local law enforcement agency, when reasonably possible, has been notified of the danger and before the arrival of its assistance.

(2) A violation of this section is justifiable when a person who possesses a firearm reasonably believes that he or she is in grave danger because of circumstances forming the basis of a current restraining order issued by a court against another person or persons who has or have been found to pose a threat to his or her life or safety. This paragraph may not apply when the circumstances involve a mutual restraining order issued pursuant to Division 10 (commencing with Section 6200) of the Family Code absent a factual finding of a specific threat to the person's life or safety. It is not the intent of the Legislature to limit, restrict, or narrow the application of current statutory or judicial authority to apply this or other justifications to defendants charged with violating Section 12025 or of committing other similar offenses.

Upon trial for violating this section, the trier of fact shall determine whether the defendant was acting out of a reasonable belief that he or she was in grave danger.

(k) Nothing in this section is intended to preclude the carrying of a loaded firearm by any person while engaged in the act of making or attempting to make a lawful arrest.

(l) Nothing in this section shall prevent any person from having a loaded weapon, if it is otherwise lawful, at his or her place of residence, including any temporary residence or campsite.

(m) (1) The district attorney of each county shall submit annually a report on or before June 30, to the Attorney General consisting of profiles by race, age, gender, and ethnicity of any person charged with a felony or a misdemeanor under this section and any other offense charged in the same complaint, indictment, or information.

(2) The Attorney General shall submit annually, a report on or before December 31, to the Legislature compiling all of the reports submitted pursuant to paragraph (1).

(3) This subdivision shall remain operative only until January 1, 2005.

SEC. 3.5. Section 1.5 of this bill incorporates amendments to Section 11106 of the Penal Code proposed by both this bill and Senate Bill 29. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2000, (2) each bill amends Section 11106 of the Penal Code, and (3) this bill is enacted after Senate Bill 29, in which case Section 1 of this bill shall not become operative.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because in that regard this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

However, notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

RESOLUTION CHAPTER 147

Senate Concurrent Resolution No. 64—Relative to crime statistics.

[Filed with Secretary of State August 30, 1982.]

WHEREAS, At the present time, there is no systematic collection of the ages of crime victims; and

WHEREAS, In order to better understand the problem of crime as it affects senior citizens, systematic collection of this information on a statewide basis is essential; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That local law enforcement officials are requested to make every attempt to modify their data gathering procedures and computer storage systems to provide information as to the number of victims of violent crimes who are 60 years of age or older; and be it further

Resolved, That the Department of Justice is requested to solicit and collect information from local law enforcement agencies concerning the ages of victims of crime and to incorporate that information in its crime statistic reporting system; and be it further

Resolved, That the Secretary of the Senate send copies of this resolution to the Attorney General.

RESOLUTION CHAPTER 148

Senate Concurrent Resolution No. 86—Relative to the John "Chuck" Erreca Safety Roadside Rest.

[Filed with Secretary of State August 30, 1982.]

WHEREAS, John "Chuck" Erreca was born on December 29, 1910, in the City of Los Banos, in the County of Merced, the son of immigrant French Basques; and

WHEREAS, He grew up in the "American tradition" of hard work on his father's ranch; and

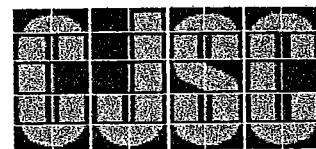
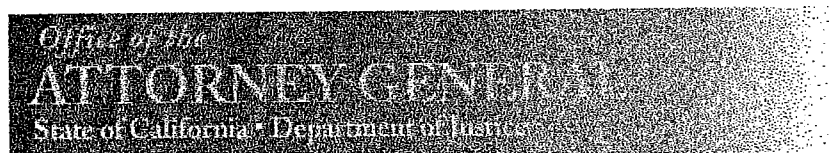
WHEREAS, He attended public schools in Los Banos, and graduated from St. Mary's College, majoring in Economics; and

WHEREAS, He returned to the ranch near Los Banos and became a successful farmer and cattle rancher; and

WHEREAS, His success in farming and ranching enabled him to participate in civic affairs and serve without salary for 23 years on the Los Banos City Council, 17 years of which he was the Mayor of the City; and

WHEREAS, He served as an officer and president of the Central Valley Division of the League of California Cities from 1951-1953; and

WHEREAS, In 1953 "Chuck" Erreca was elected to the Board of



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CRIMINAL STATISTICS REPORTING REQUIREMENTS

**CALIFORNIA
DEPARTMENT OF JUSTICE**

**CRIMINAL JUSTICE
STATISTICS CENTER**

March 2000

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Introduction

This document provides general guidelines to law enforcement agencies, District Attorneys, Public Defenders, and Probation Departments regarding their reporting requirements to the Department of Justice's Criminal Justice Statistics Center (CJSC). For each reporting requirement there is a brief description of what data is collected (introduction), which agencies are required to report the data (who), the code section(s) that require reporting (why), the due date of the report (when), and the form or alternative method required to be used to report the data (how).

For any additional information or clarification, please write or call our Special Requests Unit. They can be reached by telephone, FAX or e-mail:

California Department of Justice Telephone: (916) 227-3509

Division of Criminal Justice Information Services Fax: (916) 227-0427

Criminal Justice Statistics Center E-mail: CJSC@hdcdojnet.state.ca.us

Special Requests Unit

4949 Broadway, Room E-203

Sacramento, CA 95820

ARRESTS

Introduction

Arrest information is reported to the Department of Justice (DOJ), and is maintained in the Monthly Arrest and Citation Register data base. This data base contains information on felony and misdemeanor level arrests for adults and juveniles. Data elements include name, race/ethnicity, date of birth, sex, date of arrest, offense level, offense type, status of the offense, and law enforcement disposition. This information is used in publishing *Crime and Delinquency in California* and the *Criminal Justice Profile* series. Age, sex, race/ethnicity, and offense information is forwarded to the FBI for publication in *Crime in the United States*.

Who

Sheriff Departments, Police Departments, and other state and local agencies with peace officer powers.

Why

PC 13020. It shall be the duty of every city marshal, chief of police, railroad and steamship police, sheriff, coroner, district attorney, city attorney and city prosecutor having criminal jurisdiction, probation officer, county board of parole commissioners, work furlough administrator, the Department of Justice, Health and Welfare Agency, Department of Corrections, Department of Youth Authority, Youthful Offender Parole Board, Board of Prison Terms, State Department of Health, Department of Benefit Payments, State Fire Marshal, Liquor Control Administrator, constituent agencies of the State Department of Investment, and every other person or agency dealing with crimes or criminals or with delinquency or delinquents, when requested by the Attorney General:

(a) To install and maintain records needed for the correct reporting of statistical data required by him or her.

(b) To report statistical data to the department at those times and in the manner that the Attorney General prescribes.

(c) To give to the Attorney General, or his or her accredited agent, access to statistical data for the purpose of carrying out this title.

PC 13021. Local law enforcement agencies shall report to the Department of Justice such information as the Attorney General may by regulation require relative to misdemeanor violations of Chapter 7.5 (commencing with Section 311) of Title 9 of Part 1 of this code.

When

Reports are due monthly, by the 10th working day of the month.

How

Reporting may be accomplished manually by submitting form JUS 750, or electronically.

CRIMES AND CLEARANCES

Introduction

Crimes and clearance information is to be reported to DOJ to provide statistical data on the offenses of criminal homicide, forcible rape, robbery, assault, burglary, larceny-theft, and motor vehicle theft. The data is to include the number of actual offenses as well as the number of clearances. Supplemental data are also collected on the nature of crime and the value of property stolen and recovered. This information is forwarded to the FBI for publication in *Crime in the United States*. Data are also published in *Crime and Delinquency in California* and the *Criminal Justice Profile Series*.

Who

Sheriff Departments, Police Departments, and other state and local agencies with peace officer powers.

Why

PC 13020. It shall be the duty of every city marshal, chief of police, railroad and steamship police, sheriff, coroner, district attorney, city attorney and city prosecutor having criminal jurisdiction, probation officer, county board of parole commissioners, work furlough administrator, the Department of Justice, Health and Welfare Agency, Department of Corrections, Department of Youth Authority, Youthful Offender Parole Board, Board of Prison Terms, State Department of Health, Department of Benefit Payments, State Fire Marshal, Liquor Control Administrator, constituent agencies of the State Department of Investment, and every other person or agency dealing with crimes or criminals or with delinquency or delinquents, when requested by the Attorney General:

(a) To install and maintain records needed for the correct reporting of statistical data required by him

or her.

(b) To report statistical data to the department at those times and in the manner that the Attorney General prescribes.

(c) To give to the Attorney General, or his or her accredited agent, access to statistical data for the purpose of carrying out this title.

When

Reports are due monthly, by the 10th working day of the month.

How

Reporting may be accomplished manually by submitting form FBI 4-927 (Return A) and JUS 729, or electronically.

ARSON

Introduction

Arson data is to be reported to DOJ to provide information on the type of arson, the number of actual offenses, the number of clearances, and the estimated dollar value of property damaged. This data is published in *Crime and Delinquency in California* and the *Criminal Justice Profile* series.

Who

Sheriff Departments, Police Departments, and other state and local agencies with peace officer powers.

Why

PC 13020. It shall be the duty of every city marshal, chief of police, railroad and steamship police, sheriff, coroner, district attorney, city attorney and city prosecutor having criminal jurisdiction, probation officer, county board of parole commissioners, work furlough administrator, the Department of Justice, Health and Welfare Agency, Department of Corrections, Department of Youth Authority, Youthful Offender Parole Board, Board of Prison Terms, State Department of Health, Department of Benefit Payments, State Fire Marshal, Liquor Control Administrator, constituent agencies of the State Department of Investment, and every other person or agency dealing with crimes or criminals or with delinquency or delinquents, when requested by the Attorney General:

(a) To install and maintain records needed for the correct reporting of statistical data required by him or her.

(b) To report statistical data to the department at those times and in the manner that the Attorney General prescribes.

(c) To give to the Attorney General, or his or her accredited agent, access to statistical data for the purpose of carrying out this title.

When

Reports are due monthly, by the 10th working day of the month.

How

Reporting may be accomplished manually by submitting form FBI 1-725, or electronically.

HOMICIDES

Introduction

Homicide data is to be reported to DOJ to provide information on the number of homicides, the victim/offender relationship, the day and month of the homicide, location, type of weapon used, and precipitating event. Homicide data are published in *Homicide in California*, *Crime and Delinquency in California*, and the *Criminal Justice Profile* series. Data are also reported to the FBI for publication in *Crime in the United States*.

Homicides (continued)

Who

Sheriff Departments, Police Departments, and other state and local agencies with peace officer powers.

Why

PC 13014. (b) Every state or local governmental entity responsible for the investigation and prosecution of a homicide case shall provide the department with demographic information about the victim and the person or persons charged with the crime, including age, gender, race, and ethnic background

PC 13022. Each sheriff and chief of police shall annually furnish the Department of Justice, on a form prescribed by the Attorney General, a report of all justifiable homicides committed in his jurisdiction. In cases where both a sheriff and chief of police would be required to report a justifiable homicide under this section, only the chief of police shall report such homicide.

When

Reports are due monthly, by the 10th working day of the month.

How

Reporting may be accomplished manually by submitting form BCS-15 along with the Return A, or electronically.

HATE CRIMES

Introduction

Hate Crime data is to be reported to DOJ to provide information on the location of crime, type of bias-motivation, victim type (individual/property), number of victims/suspects, and victim's/suspect's race. This information is provided to the FBI for publication in *Crime in the United States* and published in *Hate Crime in California*, an annual report to the California Legislature.

Who

Sheriff Departments, Police Departments, and other state and local agencies with peace officer powers.

Why

PC 13023. Commencing July 1, 1990, subject to the availability of adequate funding, the Attorney General shall direct local law enforcement agencies to report to the Department of Justice, in a manner to be prescribed by the Attorney General, any information that may be required relative to any criminal acts or attempted criminal acts to cause physical injury, emotional suffering, or property damage where there is a reasonable cause to believe that the crime was motivated, in whole or in part, by the victim's race, ethnicity, religion, gender, sexual orientation, or physical or mental disability. On or before July 1, 1992, and every July 1 thereafter, the Department of Justice shall submit a report to the Legislature analyzing the results of the information obtained from local law enforcement agencies pursuant to this section.

Hate Crimes (continued)

When

Reports are due monthly, by the 15th working day of the month.

How

Reporting may be accomplished manually by submitting the agency Crime Report, or electronically.

LAW ENFORCEMENT OFFICERS KILLED OR ASSAULTED

Introduction

Data on peace officers that were killed or assaulted in the line of duty is to be reported to DOJ to provide information on the type of criminal activity, type of weapon used, type of assignment, time of assault, number with or without personal injury, police assaults cleared, and officers killed by felonious act or by accident or negligence. This information is published in *Crime and Delinquency in California* and *Homicide in California*.

Who

Sheriff Departments, Police Departments, and other state and local agencies with peace officer powers.

Why

PC 13020. It shall be the duty of every city marshal, chief of police, railroad and steamship police, sheriff, coroner, district attorney, city attorney and city prosecutor having criminal jurisdiction, probation officer, county board of parole commissioners, work furlough administrator, the Department of Justice, Health and Welfare Agency, Department of Corrections, Department of Youth Authority, Youthful Offender Parole Board, Board of Prison Terms, State Department of Health, Department of Benefit Payments, State Fire Marshal, Liquor Control Administrator, constituent agencies of the State

Department of Investment, and every other person or agency dealing with crimes or criminals or with delinquency or delinquents, when requested by the Attorney General:

(a) To install and maintain records needed for the correct reporting of statistical data required by him or her.

(b) To report statistical data to the department at those times and in the manner that the Attorney General prescribes.

(c) To give to the Attorney General, or his or her accredited agent, access to statistical data for the purpose of carrying out this title.

When

Reports are due monthly, by the 10th working day of the month.

How

Reporting may be accomplished manually by submitting form FBI 1-705 or FBI 4-927 (Return A), or electronically.

DOMESTIC VIOLENCE RELATED CALLS FOR ASSISTANCE

Introduction

Domestic violence information is to be reported to DOJ to provide monthly summary statistical data on the number of domestic violence-related calls received, number of cases involving weapons, and the type of weapon used during the incident. This information is published in *Crime and Delinquency in California* and the *Criminal Justice Profile* series.

Who

Sheriff Departments, Police Departments, and other state and local agencies with peace officer powers.

Why

PC 13730. (a) Each law enforcement agency shall develop a system, by January 1, 1986, for

recording all domestic violence-related calls for assistance made to the department including whether weapons are involved. All domestic violence-related calls for assistance shall be supported with a written incident report, as described in subdivision, (c) identifying the domestic violence incident. Monthly, the total number of domestic violence calls received and the numbers of those cases involving weapons shall be compiled by each law enforcement agency and submitted to the Attorney General.

(c) Each law enforcement agency shall develop an incident report form that includes a domestic violence identification code by January 1, 1986. In all incidents of domestic violence, a report shall be written and shall be identified on the face of the report as a domestic violence incident. A report shall include at least both of the following:

(1) A notation of whether the officer or officers who responded to the domestic violence call observed any signs that the alleged abuser was under the influence of alcohol or a controlled substance.

(2) A notation of whether the officer or officers who responded to the domestic violence call determined if any law enforcement agency had previously responded to a domestic violence call at the same address involving the same alleged abuser or victim.

When

Reports are due monthly, by the 10th working day of the month.

How

Reporting may be accomplished manually by submitting form CJSC 715, or electronically.

VIOLENT CRIMES COMMITTED AGAINST SENIOR CITIZENS

Introduction

Information regarding violent crimes committed against senior citizens is to be reported to DOJ to provide summary data on the number of persons 60 years of age or older who were victims of homicide, forcible rape, robbery, and aggravated assault.

Violent Crimes Committed Against Senior Citizens (continued)

Who

Sheriff Departments, Police Departments, and other state and local agencies with peace officer powers.

Why

Senate Resolution 64, Chapter 147, 1982, be it resolved by the Senate of the State of California, the Assembly thereof concurring, That local law enforcement officials are requested to make every attempt to modify their data gathering procedures and computer storage systems to provide information as to the number of victims of violent crimes who are 60 years of age or older.

When

Reports are due monthly, by the 10th working day of the month.

How

Reporting may be accomplished manually by submitting form BCS 727, or electronically.

DEATH IN CUSTODY

Introduction

Information on persons who die while in the custody of a local or state law enforcement agency is to be reported to DOJ to provide descriptive statistical information on the circumstances relating to the death.

Who

Sheriff Departments, Police Departments, Probation Departments and other state and local agencies with peace officer powers.

Why

GC 12525. In any case in which a person dies while in the custody of any law enforcement agency or while in custody in a local or state correctional facility in this state, the law enforcement agency or the agency in charge of the correctional facility shall report in writing to the Attorney General, within 10 days after the death, all facts in the possession of the law enforcement agency or agency in charge of the correctional facility concerning the death. These writings are public records within the meaning of subdivision (d) of Section 6252 of the California Public Records Act (Chapter 3.5 (commencing with

Section 6250) of Division 7 of Title 1), are open to public inspection pursuant to Sections 6253, 6256, 6257, and 6258. Nothing in this section shall permit the disclosure of confidential medical information that may have been submitted to the Attorney General's office in conjunction with the report except as provided in Part 2.6 (commencing with Section 56) of Division 1 of the Civil Code.

Death in Custody (continued)

When

Reports are due as needed, within 10 days of the date of death.

How

Reporting is accomplished manually by submitting form CJSC 713.

ADULT PROBATION

Introduction

Data regarding adult probation is to be reported to DOJ to provide a statistical profile of the probation function for superior and lower courts by county, type of placement, reasons for removal from probation, and the number of persons in supervision caseloads. This data is published in *Crime and Delinquency in California* and the *Criminal Justice Profile* series.

Who

Probation Departments.

Why

PC 13020. It shall be the duty of every city marshal, chief of police, railroad and steamship police, sheriff, coroner, district attorney, city attorney and city prosecutor having criminal jurisdiction, probation officer, county board of parole commissioners, work furlough administrator, the Department of Justice, Health and Welfare Agency, Department of Corrections, Department of Youth Authority, Youthful Offender Parole Board, Board of Prison Terms, State Department of Health, Department of Benefit Payments, State Fire Marshal, Liquor Control Administrator, constituent agencies of the State Department of Investment, and every other person or agency dealing with crimes or criminals or with delinquency or delinquents, when requested by the Attorney General:

(a) To install and maintain records needed for the correct reporting of statistical data required by him or her.

(b) To report statistical data to the department at those times and in the manner that the Attorney General prescribes.

(c) To give to the Attorney General, or his or her accredited agent, access to statistical data for the purpose of carrying out this title.

When

Reports are due monthly, by the 10th working day of the month.

How

Reporting is accomplished manually by submitting form CJSC 726.

JUVENILE COURT AND PROBATION STATISTICAL SYSTEM

Introduction

Juvenile justice data is to be reported to DOJ to provide information on the administration of juvenile justice in California. Information is collected on a juvenile's progress through the juvenile justice system from probation intake to final case disposition.

Who

Probation Departments.

Why

PC 13020. It shall be the duty of every city marshal, chief of police, railroad and steamship police, sheriff, coroner, district attorney, city attorney and city prosecutor having criminal jurisdiction, probation officer, county board of parole commissioners, work furlough administrator, the Department of Justice, Health and Welfare Agency, Department of Corrections, Department of Youth Authority, Youthful Offender Parole Board, Board of Prison Terms, State Department of Health, Department of Benefit Payments, State Fire Marshal, Liquor Control Administrator, constituent agencies of the State Department of Investment, and every other person or agency dealing with crimes or criminals or with delinquency or delinquents, when requested by the Attorney General:

(a) To install and maintain records needed for the correct reporting of statistical data required by him or her.

(b) To report statistical data to the department at those times and in the manner that the Attorney General prescribes.

(c) To give to the Attorney General, or his or her accredited agent, access to statistical data for the purpose of carrying out this title.

WI 285. All probation officers shall make such periodic reports to the Bureau of Criminal Statistics as the bureau may require and upon forms furnished by the bureau, provided that no names or social security numbers shall be transmitted regarding any proceeding under Section 300 or 601.

When

Reports are due monthly, by the 10th working day of the month.

How

Reporting is accomplished electronically, by cartridge or diskette, using JCPSS software.

CONCEALABLE WEAPONS STATISTICAL SYSTEM

Introduction

Concealable weapon data is to be reported to DOJ to provide information on race, ethnicity, age, and gender for each individual charged with a felony or a misdemeanor for carrying either a concealed weapon or loaded firearm.

Who

District Attorneys.

Why

PC 12025(h) (1) The district attorney of each county shall submit annually a report on or before June 30, to the Attorney General consisting of profiles by race, age, gender, and ethnicity of any person charged with a felony or a misdemeanor under this section and any other offense charged in the same complaint, indictment, or information.

PC 12031(m) (1) The district attorney of each county shall submit annually a report on or before June 30, to the Attorney General consisting of profiles by race, age, gender, and ethnicity of any person charged with a felony or a misdemeanor under this section and any other offense charged in the same complaint, indictment, or information.

When

Reports are due monthly, by the 10th working day of the month.

How

Reporting may be accomplished manually by submitting form CJSC 4, or electronically, through the Attorney General's LegalNet system or file transfer protocol.

HATE CRIME PROSECUTION SURVEY

Introduction

Hate crime data is to be reported to DOJ to provide information regarding criminal acts to cause physical injury, emotional suffering or property damage where there is a reasonable cause to believe that the crime was motivated by the victim's race, ethnicity, religion, gender, sexual orientation or physical or mental disability.

Who

District Attorneys.

Hate Crime Prosecution Survey (continued)

Why

13023. Commencing July 1, 1990, subject to the availability of adequate funding, the Attorney General shall direct local law enforcement agencies to report to the Department of Justice, in a manner to be prescribed by the Attorney General, any information that may be required relative to any criminal acts

or attempted criminal acts to cause physical injury, emotional suffering, or property damage where there is a reasonable cause to believe that the crime was motivated, in whole or in part, by the victim's race, ethnicity, religion, gender, sexual orientation, or physical or mental disability. On or before July 1, 1992, and every July 1 thereafter, the Department of Justice shall submit a report to the Legislature analyzing the results of the information obtained from local law enforcement agencies pursuant to this section.

When

Annually - the first week in February.

How

Reporting is accomplished manually by submitting form CJSC 5.

LAW ENFORCEMENT AND CRIMINAL JUSTICE PERSONNEL SURVEYS

Introduction

Agencies are to report to DOJ the number of full time, sworn and civilian male and female law enforcement personnel employed by law enforcement agencies, District Attorneys, Public Defenders or Probation Departments. Data are provided to the FBI for publication in *Crime in the United States*. Data are also published in *Crime and Delinquency in California* and the *Criminal Justice Profile* series.

Who

Sheriff Departments, Police Departments, District Attorneys, Public Defenders, Probation Departments and other state and local agencies with peace officer powers.

Why

PC 13020. It shall be the duty of every city marshal, chief of police, railroad and steamship police, sheriff, coroner, district attorney, city attorney and city prosecutor having criminal jurisdiction, probation officer, county board of parole commissioners, work furlough administrator, the Department of Justice, Health and Welfare Agency, Department of Corrections, Department of Youth Authority,

Law Enforcement and Criminal Justice Personnel Surveys (continued)

Youthful Offender Parole Board, Board of Prison Terms, State Department of Health, Department of Benefit Payments, State Fire Marshal, Liquor Control Administrator, constituent agencies of the State Department of Investment, and every other person or agency dealing with crimes or criminals or with delinquency or delinquents, when requested by the Attorney General:

(a) To install and maintain records needed for the correct reporting of statistical data required by him or her.

(b) To report statistical data to the department at those times and in the manner that the Attorney General prescribes.

(c) To give to the Attorney General, or his or her accredited agent, access to statistical data for the purpose of carrying out this title.

When

Annually - date specified for each agency.

How

Reporting is accomplished manually by submitting form JUS 02.

CITIZENS' COMPLAINTS AGAINST PEACE OFFICERS SURVEY

Introduction

Agencies are to report to DOJ statewide summary information on the number of non-criminal and criminal (misdemeanor and felony) complaints reported by citizens to law enforcement agencies, and the number of complaints that were sustained. Data are published in *Crime and Delinquency in California*.

Who

Sheriff Departments, Police Departments, District Attorneys, Probation Departments and other state and local agencies with peace officer powers.

Why

PC 13012. The annual report of the department provided for in Section 13010 shall contain statistics showing all of the following:

(d) The number of citizens' complaints received by law enforcement agencies under Section 832.5. Such statistics shall indicate the total number of these complaints, the number alleging criminal conduct of either a felony or misdemeanor, and the number sustained in each category. The report shall not contain a reference to any individual agency but shall be by gross numbers only.

When

Annually - the third week of December.

How

Reporting is accomplished manually by submitting form CJSJC 724.



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Data	Reporting Agencies						Frequency	Statute	Reporting Form	Electronic Reporting
	SD	PD	Other *	District Attorneys	Public Defenders	Probation Dept.				
Arrests	X	X	X				Monthly-10th working day	PC 13020 and PC 13021	JUS 750	X
Crimes and Clearance	X	X	X				Monthly-10th working day	PC 13020	FBI 4-927, JUS 729	X
Arson	X	X	X				Monthly-10th working day	PC 13020	FBI 1-725	X
Homicides	X	X	X				Monthly-10th working day	PC 13014(b) and PC 13022	BCS 15 Return A	X
Hate Crimes	X	X	X				Monthly-15th working day	PC 13023	Agency Crime Report	X
Law Enforcement Officers Killed or Assaulted	X	X	X				Monthly-10th working day	PC 13020	FBI 1-705, FBI 4-927	X
Domestic Violence Related Calls for Assistance	X	X	X				Monthly-10th working day	PC 13730(a)(c)	CJSC 715	X
Violent Crimes Committed Against Senior Citizens	X	X	X				Monthly-10th working day	Senate Resolution 64, Chapter 147, 1982	BCS 727	X
Death in Custody	X	X	X			X	As needed w/in 10 days of death	GC 12525	CJSC 713	None
Adult Probation						X	Monthly-10th working day	PC 13020	CJSC 726	None
Juvenile Court and Probation Statistical System						X	Monthly-10th working day	PC 13020 and WI 285	None	X
Concealable Weapons Statistical System				X			Monthly-10th working day	PC 12025(f) and PC 12031(m)	CJSC 4	X
Law Enforcement & Criminal Justice Personnel Surveys	X	X	X	X	X	X	Varies by agency	PC 13020	JUS 02	None
Citizens' Complaints Against Peace Officers Survey	X	X	X	X		X	Annually December 15	PC 13012(d)	CJSC 724	None
Hate Crime Prosecution Survey				X			Annually February 4	PC 13023	CJSC 5	None

*State and local agencies with peace officer powers.

March 2000